

THE FINAL REPORT  
OF THE  
SELECT COMMITTEE ON  
PRESIDENTIAL CAMPAIGN ACTIVITIES  
UNITED STATES SENATE

PURSUANT TO

S. RES. 60, FEBRUARY 7, 1973

A RESOLUTION TO ESTABLISH A SELECT COMMITTEE OF  
THE SENATE TO INVESTIGATE AND STUDY ILLEGAL OR  
IMPROPER CAMPAIGN ACTIVITIES IN THE PRESIDENTIAL  
ELECTION OF 1972



JUNE 1974

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(Established by S. Res. 60, 93d Congress, 1st Session)



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†On loan to Select Committee.

## LETTER OF TRANSMITTAL

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JUNE 27, 1974.

Hon. JAMES O. EASTLAND,  
*President pro tempore,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. PRESIDENT: Under the authority of Senate Resolution 60, 93d Congress, 1st session, as amended by subsequent resolutions, I am submitting on behalf of all the members of the Select Committee on Presidential Campaign Activities, the committee's final report.

As you know, the Select Committee on Presidential Campaign Activities was established on February 7, 1973, to make a "complete" investigation and study "of the extent . . . to which illegal, improper, or unethical activities" occurred in the 1972 Presidential campaign and election and to determine whether new legislation is needed "to safeguard the electoral process by which the President of the United States is chosen."

I am pleased to report that the committee has completed the vital and historic task assigned to it by the unanimous vote of the Senate. It is urgent that the Congress implement the recommendations of the Select Committee as set forth in this final report in response to the mandate of S. Res. 60.

With warm regards.

Sincerely,

SAM J. ERVIN, Jr., *Chairman.*

(v)



## PREFACE

This report represents the culmination of 1½ years' work of the Senate Select Committee on Presidential Campaign Activities. Our mandate was S. Res. 60, adopted on February 7, 1973, by a Senate vote of 77-0, which directed the Select Committee to make one of the most comprehensive investigations in the history of Congress. Although the task given to the committee appeared in the beginning to be hardly possible to fully accomplish, I am pleased to report at the end of our work that the committee did, in fact, successfully complete the mission given it by S. Res. 60.

It is a matter of special satisfaction and pride to me that our committee assumed its responsibility initially in a bipartisan manner, and despite all the pressures inherent in such a highly politically charged investigation, ended its work in a bipartisan manner. This report is a unanimous report of the full committee.

I wish to express my deep appreciation and gratitude for the untiring and dedicated contributions and support of all the members of the committee. Without their sacrifice, valuable advice, and wholehearted participation, our task would not have been so fully accomplished.

I wish to especially express my gratitude and admiration for the remarkably splendid and professional job done by the committee's chief counsel, Sam Dash. His was the responsibility to plan and supervise the investigation, the presentation of witnesses at our hearings, and the preparation of the report. Our hearings and report are a tribute to his excellent fulfillment of this responsibility.

The staff who worked under Professor Dash's supervision were exceptionally able and talented young men and women. They were given a herculean task and proved equal to the challenge. The committee is indebted to them for their tireless and inspired efforts, involving, through most of the committee's existence, late evening hours, 7 days a week. Special recognition should be given to assistant chief counsel David Dorsen, James Hamilton, and Terry Lenzner. The bipartisan, constructive effort and cooperation of minority counsel Fred Thompson and his staff helped the committee to complete its work with one unanimously approved report.

A select committee such as ours, created by the Senate for a special function, appears briefly on the Nation's scene, does its work, and disappears. It is my firm belief that the bright light this committee has shed on the matter given it to study, illuminated the American public's understanding and consciousness of the Watergate affair and will not quickly fade.

SAM J. ERVIN, Jr.,  
*Chairman, Select Committee on  
Presidential Campaign Activities.*



# CONTENTS

	Page
Letter of Transmittal.....	v
Preface.....	vii
Introduction.....	xxiii
I. The committee and its staff.....	xxv
II. Investigative procedures.....	xxvii
A. Use of immunity powers.....	xxviii
B. "Satellite" charts on key witnesses.....	xxix
C. Computer operations.....	xxx
D. Other investigative procedures.....	xxx
III. The public hearings.....	xxxii
Chapter 1—The Watergate break-in and coverup.....	1
I. The Watergate break-in and its prelude.....	1
A. The background of Watergate.....	3
1. The Huston plan.....	3
2. The enemies list.....	7
3. The Plumbers.....	12
4. Project Sandwedge.....	17
5. The hiring of G. Gordon Liddy by the campaign committee.....	18
B. The Committee for the Re-election of the President and its relation to the White House.....	18
C. The planning of "Gemstone".....	20
1. The meeting of January 27, 1972.....	21
2. The February 4, 1972 meeting.....	22
3. The Colson phone call.....	23
4. The March 30, 1972 meeting.....	24
5. Financing the operation.....	25
6. Transmittal of information to Strachan.....	26
D. Events leading to the break-in.....	27
1. The McGovern headquarters attempts.....	27
2. The first Watergate break-in.....	28
3. The fruits of the first break-in.....	29
4. Factors leading to the second break-in.....	30
II. The coverup.....	31
A. White House and CRP activity—First 3 days after the break-in.....	32
B. The disposition of the contents of Hunt's safe.....	35
C. White House concern over the Mexican and Dahlberg checks.....	37
D. White House use of the CIA to restrict the FBI Watergate investigation.....	37
E. Mardian-LaRue-Liddy meeting.....	40
F. Pressures on Hugh Sloan.....	41
G. Magruder and Porter perjury.....	44
H. Participation of White House and CRP personnel in FBI interviews.....	46
I. The President's statement of August 29—The so-called Dean report.....	47
J. The September 15 meeting between Dean and the President.....	48
K. Payoffs to Watergate defendants.....	51
1. Early payoff discussions.....	51
2. The activities of Herbert Kalmbach and Tony Ulasewicz.....	51
3. The Hunt to Colson telephone call.....	55
4. The \$350,000 White House fund.....	56
5. Additional pressures by Hunt.....	57
6. The March 21 meeting in the Oval Office.....	57
7. Other relevant Presidential meetings concerning payoffs.....	60

## Chapter 1—The Watergate break-in and coverup—Continued

	Page
L. Representations concerning Executive clemency-----	63
1. Representations to James McCord-----	63
2. Representations to Howard Hunt-----	66
3. Representations to Jeb Magruder-----	70
4. Representations to G. Gordon Liddy-----	72
5. Consideration of clemency for Dean and Mitchell-----	73
M. Activities relating to other investigations and court proceedings-----	73
1. The Patman hearings-----	73
2. The civil suits-----	74
3. CIA investigative materials-----	75
4. Other activities relating to the Select Committee-----	76
a. The La Costa meeting-----	76
b. Documentary and other evidence indicating the White House strategy-----	78
5. Henry Petersen's Communications to the President-----	80
N. The beginning of the unraveling of the coverup-----	82
1. The February 28 meeting-----	83
2. The March 13 meeting-----	84
3. The March 21 meeting-----	86
4. The Camp David trip-----	89
5. Dean's initial contacts with prosecutors and the Select Committee-----	89
6. The Ehrlichman investigation-----	90
7. The attempt to have Mitchell take the blame-----	91
8. The President's April 15 meeting with Kleindienst and Petersen-----	91
9. Further meetings between the President and Dean-----	92
10. The question of immunity for Dean-----	93
11. The President's April 30 statement-----	95
III. Recommendations-----	96
Chapter 2—Campaign Practices-----	107
Introduction-----	107
I. White House-inspired political activities, 1968-71-----	109
A. Caulfield and Ulasewicz-----	109
1. Electronic surveillance-----	111
2. Operation Sandwedge-----	113
3. Other surveillance—Senator Edward M. Kennedy-----	117
B. The Plumbers-----	119
C. Investigation of the Brookings Institution-----	124
D. Diem cable incident-----	125
E. ITT and Dita Beard-----	127
F. The Plan for an investigation of Arthur Bremer-----	129
G. Misuse and attempted misuse of Government agencies by the White House, 1969 through 1972-----	130
1. Introduction-----	130
2. Internal Revenue Service-----	130
a. Political enemies project-----	130
b. The enemies list and the Internal Revenue Service-----	132
c. Tax information and audits requested of the Internal Revenue Service-----	133
(1) Sensitive case reports-----	134
(2) Requests for audits-----	135
(3) Requests for taxpayer information from the IRS-----	137
(4) Special Service Staff-----	139
(5) Tax-exempt foundations-----	141
3. Federal Bureau of Investigation-----	143



# XI

## Chapter 2—Campaign Practices—Continued

	Page
4. Department of Justice .....	145
a. Antitrust policy .....	145
b. Internal Security Division .....	146
c. Parole Board .....	147
5. Secret Service .....	147
6. Other agencies .....	149
a. Federal Communications Commission .....	149
b. ACTION (formerly the Peace Corps and Vista) .....	150
H. Public relations in the White House .....	150
1. Introduction .....	150
2. Letterwriting .....	150
3. Direct mailing .....	153
4. Citizens committees .....	154
a. Tell It To Hanoi Committee .....	154
b. Citizens Committee To Safeguard America .....	155
c. Committee For A Responsible Congress .....	155
d. Committee For The Congress of 1970 .....	156
e. Labor For America Committee .....	157
f. Citizens For A Liberal Alternative .....	157
II. 1972 campaign .....	158
A. Political strategy .....	158
B. Implementation of White House and CRP strategy .....	160
1. Donald Segretti .....	160
a. Hiring .....	160
b. Activities .....	163
(1) Summary .....	163
(2) Relationship with Chapin .....	163
(3) Relationship with Hunt and Liddy .....	165
(4) Primary activities .....	166
(a) Infiltrators .....	167
(b) Surveillance .....	168
(c) Disruptions .....	168
(i) Distribution of false and misleading literature .....	168
(ii) False advertising .....	173
(iii) Pickets .....	174
(iv) Other disruptions .....	176
c. Segretti coverup .....	178
d. White House press response .....	184
2. Other intelligence-gathering and disruption .....	187
a. Ruby I .....	187
b. Sedan Chair I .....	190
c. Sedan Chair II .....	192
d. Ruby II .....	196
e. Colson suggestions .....	197
f. Chapman's friend .....	199
g. Young voters for the President demonstrations .....	200
h. Use of advance people .....	201
i. Vote siphoning schemes .....	202
j. Unsigned literature .....	205
3. Impact on Democratic campaigns .....	205
C. Improper activities directed against President Nixon's re-election campaign .....	207
1. Demonstrations .....	207
2. Campaign violence and harassment .....	210
3. Campaign literature .....	211
III. Recommendations .....	211
Exhibits to chapter 2 .....	214

	Page
Chapter 3—Use of Incumbency—Responsiveness Program.....	361
I. Introduction and overview.....	361
II. Early manifestations of administration's interest in using the incumbency to affect the reelection effort.....	362
III. The "Responsiveness Program"—the administration's basic plan to employ Federal resources to affect the 1972 Presi- dential election.....	367
A. The general plan.....	367
B. The plan as conceived with particular reference to minority groups.....	373
1. Spanish-speaking plans.....	373
2. Black plans.....	375
IV. Communication of the responsiveness concept to Government and campaign officials.....	378
V. Results of the Responsiveness Program and other related activities.....	380
A. Activities respecting the Spanish-speaking.....	380
1. Organization of Spanish-speaking effort.....	381
2. Activities involving the dispensing of Federal funds.....	382
a. Specific activities to help administration friends.....	384
(1) J. A. Reyes & Associates.....	384
(2) Ultra-Systems, Inc.....	385
b. Action against persons not supportive of the administration.....	386
(1) Development Associates (Leveo Sanchez).....	387
(2) Activities respecting other non- supportive companies.....	390
c. "Neutralization" of potential opponents.....	391
d. Malek's comments on grantmaking ac- tivity as to Spanish-speaking con- stituents.....	393
3. Cabinet Committee on Opportunities for Spanish- Speaking People and the Media Effort.....	394
a. The Cabinet Committee.....	394
b. The Media Plan.....	395
c. Hoy.....	397
4. Other efforts by the Spanish-speaking task force to promote the President's reelection.....	397
a. La Raza Unida matter.....	397
b. Reyes Lopez Tijerina matter.....	400
c. Alfred Hernandez matter.....	401
d. Ed Pena matter.....	402
e. Request for a demonstration.....	403
f. Holding back census data.....	404
B. Activities respecting black constituents.....	405
1. James Farmer matter.....	405
2. Charles Wallace matter.....	406
3. Additional involvement of campaign officials in governmental processes.....	407
4. Solicitation of contributions from black recipients of Federal moneys.....	409
C. The Responsiveness Program progress report.....	410
1. EEOC-University of Texas matter.....	410
2. Dock and Wharf Builders investigation.....	411
3. Fannie Mae inquiry.....	411
D. GSA matters.....	412
1. Campaign involvement in GSA contract awards.....	412
2. Solicitation of political contributions.....	413
E. Activities regarding the staffing of Federal positions.....	414
1. Part-time boards and commissions.....	414
2. Noncareer personnel generally.....	415
3. Competitive service positions.....	416

# XIII

Chapter 3—Use of Incumbency—Responsiveness Program—Continued	Page
F. Activities regarding the elderly	419
1. Use of Federal resources	419
a. Government brochures	419
b. Other uses of Government funds	423
2. The Federation of Experienced Americans	424
G. Other related activities	429
1. Conduct at the Veterans' Administration	429
2. The surrogate program advance school	430
3. Activities re military voters	430
VI. Resistance in the bureaucracy to the responsiveness concept	431
A. The failure of the departments and agencies to submit responsiveness plans	431
B. DOL migrant labor grant	433
C. Approach to HUD	433
D. Difficulties with OMBE	434
VII. Purported cancellation of the Responsiveness Program	436
VIII. Discussion	437
IX. Recommendations	442
Chapter 4—Campaign Financing	445
Introduction	445
I. Corporate contributions	446
A. American Airlines, Inc	447
B. American Ship Building Co.	451
C. Ashland Oil Co., Inc.	459
D. Braniff Airways, Inc.	462
E. The Carnation Co.	464
F. Diamond International Corp.	464
G. Goodyear Tire & Rubber Co.	465
H. Gulf Oil Corp.	469
I. The Hertz Corp.	473
J. Lehigh Valley Cooperative Farmers, Inc.	481
K. Minnesota Mining & Manufacturing Co.	484
L. Northrop Corp.	486
M. Phillips Petroleum Co.	489
II. Ambassadorships	492
Table showing contributions of ambassadors appointed by President Nixon	493
A. J. Fife Symington	497
B. Vincent de Roulet	501
C. C. V. Whitney	504
III. Role of Herbert W. Kalmbach in the campaign	505
Individuals solicited by Herbert W. Kalmbach and actual contributions	508
IV. Union activity	511
A. Farmworkers political education fund	511
B. Seafarers Political Action Donation Committee	512
V. Robert H. Allen—Mexican checks	514
VI. National Hispanic Finance Committee—Benjamin Fernandez and John Priestes	522
VII. Committee questionnaires	526
A. The sample canvassed	526
B. Results of questionnaire survey	527
C. Contributions by corporate executives	528
D. Union contributions to Presidential candidates	530
VIII. Corporate oriented solicitation	544
A. The corporate conduit program	544
1. The plan	544
2. The execution of the plan	545
3. CGSP—Direct mail program	547
B. Industry-by-industry program	548
C. Separate segregated funds: Corporate good Government committees	550
1. Gould, Inc.	552
2. Tennessee Eastman Co.	553

# XIV

Chapter 4—Campaign Financing—Continued	Page
IX. Compromise of campaign debts	553
Schedule of forgiven debts in excess of \$100	556
X. Cash contributions by contractors	558
XI. Campaign financing recommendations	563
Chapter 5—Milk Fund	579
Introduction	579
I. Background—The three leading dairy cooperatives and their political arms	582
A. Associated Milk Producers, Inc	583
1. AMPI	583
2. TAPE/CTAPE	584
B. Dairymen, Inc	585
1. DI	585
2. SPACE	586
C. Mid-America Dairymen, Inc	586
1. Mid-Am	586
2. ADEPT	586
II. \$100,000 cash contribution to Kalmbach in 1969—AMPI's objectives	587
A. AMPI contacts with administration officials and Kalmbach prior to the contribution	587
1. John Mitchell, Jack Gleason and referral to Herbert Kalmbach	587
2. Contacts with Kalmbach—\$100,000 in cash	589
3. Purpose of the contribution—AMPI's three "objectives"	591
B. The contribution: Preparation and delivery	593
C. Disposition of the contribution and subsequent AMPI-White House contacts in 1969	595
1. Disposition of the contribution	595
2. Contacts between AMPI and White House officials in 1969 after the contribution	595
D. Corporate funding of the \$100,000 contribution	596
1. Nelson-Isham-Pierson meeting	596
2. \$100,000 loan to Lilly	598
3. The alleged conduits	599
a. Stuart Russell	599
b. Jake Jacobsen and Joe R. Long	602
c. W. DeVier Pierson	604
d. Ted Van Dyk and Kirby Jones	605
e. James R. Jones	607
f. Frank Masters	609
g. Richard Maguire	610
h. Clifford Carter	611
E. Use of the conduit scheme for other corporate political contributions	611
III. Contacts between AMPI and the President and administration officials in 1970—an alleged \$2 million pledge to the President's reelection campaign	612
A. Meetings with Colson—the \$2 million pledge	612
1. Meetings with Colson	612
2. The \$2 million pledge	613
a. Colson—a "\$2 Million Package"	613
b. \$2 million and the reelection campaign	614
B. Contacts with the President—the \$2 million pledge	616
1. President's call to Nelson	616
2. Presidential meeting with Nelson and Parr	617
3. Presidential action on dairy import quotas	619
a. USDA and Tariff Commission action	619
b. Hillings' letter to the President—import quotas and the \$2 million pledge	619
c. Presidential proclamation on import quotas	621

## Chapter 5—Milk Fund—Continued

	Page
IV. The 1971 price-support decision by the President, and dairy trust contributions to the President's campaign.....	621
A. The Department of Agriculture decisionmaking process prior to March 23.....	623
1. The March 12 decision.....	623
a. Statutory background.....	623
b. Preparation for the March 12 decision.....	624
c. The March 12 decision.....	627
2. USDA inaction from March 12 to March 23.....	627
B. Milk producers' activity prior to March 23.....	628
1. Presentations to USDA.....	628
a. Pre-March 12.....	628
b. March 12-23.....	629
2. Efforts to secure congressional support.....	629
C. White House involvement prior to March 23.....	631
1. March 12 decision.....	631
a. OMB and CEA review.....	631
b. Presidential review.....	632
2. March 12-23.....	633
a. Murray Chotiner.....	633
b. John Ehrlichman.....	635
(1) Meeting on March 19.....	635
(2) Ehrlichman call to Parr.....	636
D. Milk producer contacts with John Connally prior to March 23.....	637
1. Contacts by Jake Jacobsen.....	637
2. Contact with Bob Lilly at Page Airways.....	638
E. Milk producer contribution activity prior to March 23.....	640
1. \$2 million commitment.....	640
2. Contributions to the March 24, 1971, Republican dinner.....	641
F. March 23.....	642
1. 9 a.m.—Colson-Chotiner meeting.....	643
2. 10:15 a.m.—President's call to Connally.....	643
3. 10:30 a.m.—Meeting between the President and milk producers.....	643
a. Preparation for the meeting.....	643
b. Whitaker's briefing paper for the President.....	644
c. The meeting.....	645
4. 12 noon—President, Shultz and Ehrlichman meeting.....	646
5. 4:45 p.m.—Meeting between the President and his advisers.....	647
6. 5:50 p.m.—Ehrlichman-Colson meeting.....	648
7. 6 p.m.—Colson-Chotiner meeting.....	649
8. Chotiner call to Nelson.....	649
9. Campbell call to Nelson.....	650
10. Ehrlichman-Kalmbach call.....	650
11. Jacobsen call to Connally.....	651
12. Late night meeting in Louisville.....	655
G. March 24.....	657
1. \$75,000 from SPACE and ADEPT.....	657
2. 5:30 p.m.—Ehrlichman-Kalmbach meeting.....	658
3. Kick-off 1972 Republican dinner.....	658
4. Chotiner-Nelson-Kalmbach meeting.....	659
a. Chotiner's account.....	659
b. Nelson's account.....	660
c. Kalmbach's account.....	663
5. Nelson-Parr conversation.....	667
H. March 25 price support decision and the aftermath.....	668
1. The March 25 announcement.....	668
2. Milk producer reaction to the decision.....	671
3. White House treatment of the commitment after March 25.....	673

## Chapter 5—Milk Fund—Continued

	Page
I. In defense of the President—A "Gun to Our Head"....	673
1. Congressional pressure.....	674
a. Extent of congressional support.....	674
b. The likelihood and timing of passage....	675
c. The question of a Presidential veto....	676
d. Impact of the President's decision.....	677
2. Justification on the merits of the President's decision.....	678
3. Milk producer contributions and the President.....	680
a. Significance to the President of milk producer contributions.....	680
b. Significance to the milk producers of their contributions to the President....	681
V. Milk producers' contribution activity in 1971 following the milk price support decision—Money for Connally, the President's campaign, and the Ellsberg break-in.....	682
A. AMPI cash payments for Connally.....	683
1. \$10,000 for Connally.....	683
a. Lilly's testimony.....	683
b. Jacobsen's and Connally's testimony....	684
c. Other evidence.....	685
2. \$5,000 for Connally.....	686
B. Milk producers' contributions to the President's campaign—the 1971 AMPI convention.....	688
1. \$50,000 from ADEPT and \$10,000 from SPACE.....	688
2. Public disclosure of \$232,500 to numerous Nixon committees.....	689
a. The contributions.....	689
b. Rose Mary Woods' list.....	692
c. Public disclosure.....	693
3. 1971 AMPI convention and the President.....	694
4. Funding the Ellsberg break-in.....	694
a. Joseph Baroody and AMPI.....	694
b. Repayment for the break-in.....	696
c. Haldeman and Ehrlichman approval of the milk producer repayment.....	698
VI. Milk producer contribution activity in 1972 prior to April 7—the Justice Department antitrust suit against AMPI.....	699
A. The Justice Department antitrust suit against AMPI.....	699
1. Department staff investigation and recommendations.....	700
2. Attorney General Mitchell's actions.....	701
3. Prefiling negotiations and the filing of the suit....	703
B. White House involvement prior to the filing of the suit....	705
1. Monitoring of the antitrust investigation by White House aides.....	705
2. Haldeman-Mitchell meeting.....	706
3. Other Mitchell contacts.....	707
C. Fundraising meetings between AMPI and Kalmbach in January and February 1972.....	708
1. Kalmbach-Nelson-Jacobsen meeting on January 14.....	708
2. Kalmbach-AMPI meeting on February 3.....	710
a. <i>Nader v. Butz</i> .....	710
b. George Mehren and the question of previous commitments of contributions.....	711
c. February 3 meeting.....	712
D. Milk producer meetings on March 16 with Kalmbach and Connally.....	713
1. Meeting with Kalmbach.....	714

# XVII

## Chapter 5—Milk Fund—Continued

	Page
2. Meeting with Connally.....	715
a. IRS and Justice Department investigations.....	715
b. The meeting.....	718
c. Lilly's account.....	720
3. Disposition of the tax investigations.....	721
E. April 4, 1972—An aborted contribution and the anti-trust suit.....	722
1. Pre-April 4 discussions.....	723
a. Kalmbach, Jacobsen, and Mehren.....	723
b. Chotiner and Mitchell.....	723
2. April 4 meeting and contacts with Kalmbach about the antitrust suit and contributions.....	725
a. The meeting.....	725
b. Kalmbach's call to Mehren.....	726
c. Corroboration of Lilly's account.....	726
VII. Milk producer contributions to the President's campaign after April 7, 1972.....	729
A. \$95,000 from ADEPT and SPACE.....	729
1. Meeting with Connally and \$50,000 for Democrats for Nixon.....	730
2. \$45,000 to FCRP.....	731
B. \$200,000 to the President's campaign.....	732
1. Nunn-Mehren meeting.....	733
2. L.B.J.-Mehren meeting.....	734
3. Lilly-Mehren meeting.....	735
4. \$350,000 to Republican congressional committees—Alleged \$200,000 passthrough to FCRP.....	736
a. Milk producers' version.....	737
b. Prior RNC transfers to congressional committees.....	739
c. Other evidence of alleged passthrough.....	741
Appendix A—Persons and organizations.....	745
Appendix B—Milk fund—Chronology.....	747
Appendix C—Selected documents.....	755
Appendix D—Selected House Judiciary Committee materials.....	772
Chapter 6.—The 1972 Presidential campaign of Senator Hubert H. Humphrey—Financial elements.....	869
Preface.....	869
I. Corporate contributions to the 1972 Presidential campaign of Hubert H. Humphrey by Associated Milk Producers, Inc.—Valentine, Sherman and Associates matter.....	870
A. Summary.....	870
B. Associated Milk Producers, Inc.....	871
C. Valentine, Sherman and Associates.....	871
D. VSA's initial proposal to AMPI.....	872
E. VSA's arrangements with AMPI regarding services in various States.....	873
F. The corporate payments by AMPI.....	874
G. AMPI contributions to Senator Humphrey's Presidential campaign.....	876
1. The \$25,000 corporate payment.....	876
2. Indications that AMPI officials intended more than \$25,000 of the \$137,000 to be for Senator Humphrey's benefit.....	878
H. The preparation of bogus documentation; the provision of useless lists to AMPI by VSA.....	880
II. Senator Humphrey's support for legislation favorable to milk producers, and other contributions from dairy producer cooperatives.....	881
A. Summary.....	881
B. Background.....	882
C. Senator Humphrey's action in March 1971.....	882
D. Contributions by dairy trusts to Senator Humphrey.....	883

## Chapter 6—Continued

III. Large individual contributions to the Humphrey campaign before April 7, 1972.....	883
A. Summary.....	883
B. Introduction.....	884
C. Background.....	885
D. The Humphrey Presidential campaign takes form—Humphrey Volunteer Committee; Friends of Humphrey Committee.....	886
E. Humphrey for Senator Committee—Continued use.....	886
F. Use of the Chestnut law firm trust account.....	886
G. Backers of Humphrey Committee—Jackson and Company.....	887
H. Archer-Daniels-Midland shares contributed—The Humphrey "Blind Trust".....	888
I. Affidavits of Andreas, Hastings, McMurtrie.....	888
J. Chestnut interviews.....	890
K. Investigative delays.....	890
L. Destruction of financial records.....	891
M. Perspective and disposition.....	892
IV. Contribution from Minnesota Mining and Manufacturing Co.....	893
A. Summary.....	893
B. The contribution.....	893
V. Contribution of \$50,000 by John L. Loeb, Sr.....	894
A. Summary.....	894
B. Senator Humphrey meets with Loeb—The solicitation.....	895
C. Assembling the contribution.....	896
D. Delivery and receipt of contribution—Reports to GAO.....	897
E. Thatcher's 1973 conversation with Humphrey.....	897
F. Loeb's prosecution.....	897
G. Status of the matter.....	898
Attachment to Chapter 6.....	899
Chapter 7—The 1972 Presidential campaign of Congressman Wilbur D. Mills—Financial elements.....	903
Preface.....	903
I. Contributions from Associated Milk Producers, Inc.....	904
A. Introduction.....	904
B. Contributions by political action committees—Mills' support of legislation favorable to dairy producers.....	905
1. Summary.....	905
2. Background.....	905
3. Support from Mills.....	906
4. Dairy trust contributions to Mills.....	908
5. Completion of investigation.....	908
C. Cash from corporate assets of Associated Milk Producers, Inc.....	908
1. Summary.....	908
2. \$5,000 in August 1971.....	909
3. \$5,000 in November 1971.....	910
D. Services rendered by employees of Associated Milk Producers, Inc.....	911
1. Summary.....	911
2. Joe Johnson, Terry Shea, Betty Clemens Bullock.....	911
3. Other AMPI employees in New Hampshire and elsewhere.....	915
E. Expenses of Iowa cooperative month rally.....	915
1. Summary.....	915
2. Designation of Iowa Co-op Month.....	916
3. Evidence of Congressman Mills' call to solicit forum.....	916
4. Assurance of financial backing.....	916
5. Congressman Mills is formally invited.....	917
6. AMPI employees' services—Payment of expenses.....	917



Chapter 7—Continued

	Page
7. Promotion of Congressman Mills as a purpose.....	918
F. Solicitation of donations from AMPI employees.....	920
1. Summary.....	920
2. Aggregation of employees' checks for Mills.....	921
3. Employee checkoff system.....	922
G. Advertising material provided through Walker & Associates, Inc.....	922
1. Summary.....	922
2. The transaction.....	922
II. Contribution from Gulf Oil Corp.....	923
A. Summary.....	923
B. The transaction.....	923
III. Contribution from Minnesota Mining & Manufacturing Co.....	925
A. Summary.....	925
B. The transaction.....	926
Attachment to Chapter 7.....	928
Chapter 8—The Hughes-Rebozo investigation and related matters.....	931
Introduction.....	931
I. Hughes and the Hughes Nevada operations.....	933
II. Background of the contribution commitment.....	933
A. Danner's version of contribution commitment.....	934
B. Rebozo's version.....	935
C. Meeting among Danner, Rebozo, and Morgan.....	936
D. New York meeting.....	937
III. Attempted contribution at Palm Springs.....	938
IV. Rebozo's 1969 responsibilities.....	940
A. Introduction.....	940
B. Fundraising.....	940
C. Disbursal of funds.....	941
D. Acting as agent for President Nixon at Key Biscayne.....	943
V. Delivery and retention of the contributions—Introduction and summary of facts.....	944
A. Testimony and statements of the principals.....	948
1. Richard Danner.....	949
2. Robert A. Maheu.....	951
3. Peter R. Maheu.....	952
4. Thomas G. Bell.....	953
5. Charles G. Rebozo.....	954
B. An analysis of possible sources of the contributions.....	956
1. Preelection 1968.....	956
2. The Sands Hotel cage—early December 1968.....	956
3. Nadine Henley—December 5, 1968.....	958
4. Nadine Henley—June 27–July 11, 1969.....	960
5. Silver Slipper Casino—October 26, 1970.....	960
6. A note on storage of the money before delivery to Rebozo.....	961
C. An analysis of possible delivery dates.....	962
1. December 1968—the Bahamas.....	962
2. April 2–10, 1969—Key Biscayne.....	963
3. June 26, 1969—Key Biscayne.....	963
4. September 11–12, 1969—Key Biscayne.....	963
5. February 3–5, 1970—Key Biscayne.....	965
6. March 20–22, 1970—Key Biscayne.....	966
7. July 3, 1970—San Clemente.....	967
8. August 19–20, 1970—Key Biscayne.....	967
9. October 28–30, 1970—Key Biscayne.....	968
D. Storage of the money by Rebozo.....	968
E. The Federal Reserve evidence compared to the sources and the deliveries.....	972
1. The mechanics of tracing the \$100,100.....	972
2. Some general facts about the money Rebozo returned.....	974
3. The "matching" numbers.....	975

## Chapter 8—Continued

	Page
4. The facts compared with possible sources of the deliveries.....	976
5. The facts compared with possible dates of delivery.....	978
VI. Dunes Report—Introduction.....	980
A. Prior Antitrust Division review of Hughes' hotel activities—the <i>Stardust</i> and <i>Landmark</i> cases.....	981
B. The Dunes.....	983
1. How it began.....	983
2. The Mitchell-Danner meetings.....	984
a. Danner's testimony.....	985
b. Mitchell's statement.....	989
3. What happened in the Antitrust Division.....	989
4. The FBI's role.....	991
5. The "anticrime" factor in the Dunes decision.....	992
6. What happened after the March 26 memorandum.....	994
7. The negotiations and their collapse.....	996
C. Conclusion.....	998
VII. Rebozo's 1972 campaign fundraising role.....	998
VIII. Return of the Hughes contribution.....	1001
IX. The IRS investigation of Rebozo.....	1016
IRS audit of Larry O'Brien.....	1025
X. The issue of use of the money.....	1030
A. Background.....	1030
B. Summary of facts.....	1031
C. The Coopers & Lybrand report.....	1032
D. Expenditures by Rebozo concealed from accountants.....	1033
E. The improvements on the President's Key Biscayne properties.....	1034
1. Architect fees and tile repairs—\$3,335.....	1034
2. Architectural model of 500 Bay Lane—\$395.65.....	1035
3. Conversion of garage into living quarters, 516 Bay Lane—\$11,978.84.....	1035
4. Putting green at 516 Bay Lane—\$243.57.....	1036
5. The President's payments for work on his Key Biscayne properties—\$76,053.02.....	1036
F. The Wakefield trust accounts.....	1036
1. Construction of swimming pool and accessories—\$18,435.18.....	1038
2. Pool heater.....	1039
3. Screen enclosure at pool.....	1039
4. Pool carpet.....	1040
5. Pool furniture.....	1040
G. Summary of Wakefield trust account payments.....	1041
H. Rebozo's financial situation.....	1044
1. No record of pool costs in President's books.....	1044
2. The fireplace.....	1045
3. The pool table.....	1045
4. Fuel oil payments.....	1045
I. The Florida Nixon for President Committee account.....	1046
J. Purchase of earrings for Mrs. Nixon from Harry Winston.....	1047
K. President Nixon beneficiary of loan note signed by C. G. Rebozo.....	1048
L. Summary of total payments on behalf of President Nixon.....	1049
M. \$20,000 cash funds in Rebozo's possession—September 1969.....	1050
N. The President's response.....	1051
O. Rebozo's response.....	1051
P. Other recipients of campaign funds.....	1052
Q. Summary chart.....	1052a

Chapter 8—Continued	Page
XI. A summary analysis of conflicting evidence	1053
A. Initiator of the contribution	1053
B. Actual delivery of funds	1053
C. Initiator of first delivery	1055
D. Purpose of the money	1055
E. Individuals who had knowledge of the receipt of the Hughes contribution	1056
F. Conditions under which the money was stored	1057
G. Other contributions	1058
H. Return of the money	1060
I. Camp David meeting	1066
J. IRS investigation	1067
XII. Summary	1068
XIII. Legislative recommendations	1071
Appendix (List of individuals interviewed)	1075
Chapter 9—The Select Committee in court	1079
I. Overview of litigation	1079
II. Discussions and recommendations	1084
Chapter 10—The Select Committee's use of computer technology	1087
I. Introduction and overview	1087
II. Processing the data	1088
III. Format of the data	1089
IV. Investigative use of the computer	1091
V. Cooperation with other investigative bodies	1092
VI. Microfilm procedure	1093
VII. Disposition	1094
Chart—Data processing flow	1095
Chapter 11—Individual views of Senators of the Select Committee:	
Ervin, Sam J., Jr., chairman	1097
Baker, Howard H., Jr., vice chairman	1105
Inouye, Daniel K., and Joseph M. Montoya, joint views	1167
Gurney, Edward J.	1171
Weicker, Lowell P., Jr.	1175
Resolutions pertaining to Select Committee	1231



## INTRODUCTION

This report presents the findings and recommendations of the Senate Select Committee on Presidential Campaign Activities based on its investigation of the Watergate break-in and coverup, illegal and improper campaign practices and financing, and other wrongdoing during the Presidential campaign of 1972. Once termed "a cancer growing on the Presidency" by a principal committee witness,<sup>1</sup> Watergate is one of America's most tragic happenings. This characterization of Watergate is not merely based on the fact that the Democratic National Committee headquarters at the Watergate was burglarized in the early morning hours of June 17, 1972. Rather, it is also an appraisal of the events that led to the burglary and its sordid aftermath, an aftermath characterized by corruption, fraud, and abuse of official power.

The Select Committee is acutely conscious that, at the time it presents this report, the issue of impeachment of the President on Watergate-related evidence is pending in the Judiciary Committee of the House of Representatives. The Select Committee also recognizes that there are pending indictments against numerous defendants, most of whom were witnesses before the committee, which charge crimes that, directly or indirectly, relate to its inquiry. It thus must be stressed that the committee's hearings were not conducted, and this report not prepared, to determine the legal guilt or innocence of any person or whether the President should be impeached. In this regard, it is important to note that the committee, during its short lifespan, has not obtained all the information it sought or desired and thus certain of its findings are tentative, subject to reevaluation when the full facts emerge. Moreover, the committee, in stating the facts as it sees them, has not applied the standard of proof applicable to a criminal proceeding—proof beyond a reasonable doubt. Its conclusions, therefore, must not be interpreted as a final legal judgment that any individual has violated the criminal laws.

The committee, however, to be true to its mandate from the Senate and its constitutional responsibilities, must present its view of the facts. The committee's enabling resolution, S. Res. 60, 93d Cong., 1st Sess. (Feb. 7, 1973)<sup>2</sup> which was passed by a unanimous Senate, instructs the committee to make a "complete" investigation and study "of the extent . . . to which illegal, improper, or unethical activities" occurred in the 1972 Presidential campaign and election and to determine whether new legislation is needed "to safeguard the electoral process by which the President of the United States is chosen." S. Res. 60, sections 1(a) and 2. Thus the factual statements contained in this

<sup>1</sup> 3 *Hearings* 998.

<sup>2</sup> See the Appendix to the *Hearings of Legal Documents*, p. 3.

report perform two basic legislative tasks. First, they serve as a basis for the remedial legislation recommended herein which the committee believes will assist in preserving the integrity of the electoral process not only for present day citizens but also for future generations of Americans. Second, they fulfill the historic function of the Congress to oversee the administration of executive agencies of Government and to inform the public of any wrongdoing or abuses it uncovers. The critical importance of this latter function cannot be over-emphasized. As the Supreme Court said in *Watkins v. United States*, 354 U.S. 178, 200 (1957) :

[There is a] power of the Congress to inquire into and publicize corruption, maladministration or inefficiency in agencies of the Government. That was the only kind of activity described by Woodrow Wilson in "Congressional Government" when he wrote: "The informing function of Congress should be preferred even to its legislative function." *Id.*, at 303. From the earliest times in its history, the Congress has assiduously performed an "informing function" of this nature.

And, in *United States v. Rumely*, 345 U.S. 41, 43 (1953), the Supreme Court termed the informing function "indispensable" and observed:

"It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. It is meant to be the eyes and the voice, and to embody the wisdom and will of its constituents. Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the country must be helpless to learn how it is being served; and unless Congress both scrutinize these things and sift them by every form of discussion, the country must remain in embarrassing, crippling ignorance of the very affairs which it is most important that it should understand and direct. The informing function of Congress should be preferred even to its legislative function." Wilson, "Congressional Government," 303.

It is in part to fulfill the historic "informing function" that the committee reveals to the public the detailed facts contained in this report.

Before turning to a recitation of the facts as the committee sees them, certain general observations based on the evidence before the committee are appropriate. The Watergate affair reflects an alarming indifference displayed by some in the high public office or position to concepts of morality and public responsibility and trust. Indeed, the conduct of many Watergate participants seems grounded on the belief that the ends justified the means, that the laws could be flaunted to maintain the present administration in office. Unfortunately, the attitude that the law can be bent where expediency dictates was not confined to a few Government and campaign officials. The testimony respecting the campaign funding practices of some of the Nation's largest and most respectable corporations furnishes clear examples of the subjugation of legal and ethical standards to pragmatic considerations. Hopefully, after the flood of Watergate revelations the country has witnessed, the public can now expect, at least for some years to come, a higher standard of conduct from its public officials and its business and professional leaders. Also, it is hoped that the

Watergate exposures have created what former Vice President Agnew has called a "post-Watergate morality" where respect for law and morality is paramount.

In approaching its task of recommending remedial legislation, the committee is mindful that revelations of past scandals have often failed to produce meaningful reform. Too frequently there is a tendency to overreact in the wake of a particular scandal and burden the penal code with ill-considered laws directed to the specific—perhaps aberrational—conduct exposed. This proliferation of criminal laws has tended to over-complicate the penal code and, consequently, to impair the effectiveness of its administration. Moreover, legislation is, at best, a blunt weapon to combat immorality.

While this report does make certain specific recommendations for new criminal legislation or for strengthening existing criminal laws, the committee has been careful to recommend only where the need is clear. Its major legislative recommendations relate to the creation of new institutions necessary to safeguard the electoral process, to provide the requisite checks against the abuse of executive power and to insure the prompt and just enforcement of laws that already exist. Surely one of the most penetrating lessons of Watergate is that campaign practices must be effectively supervised and enforcement of the criminal laws vigorously pursued against all offenders—even those of high estate—if our free institutions are to survive.

The committee's mandate was broad and its time to meet it brief. Nonetheless, the committee believes that, through its efforts and those of others, the basic facts of the Watergate scandal have been exposed to public view and, as a result, the American people have been re-awakened to the task democracy imposes upon them—steadfast vigilance of the conduct of the public officials they choose to lead them. This public awareness, in turn, has provided the atmosphere necessary to support other essential governmental responses to Watergate such as the work of the Special Prosecutor and the activities of the House Judiciary Committee on impeachment. Because the Nation is now alert, because the processes of justice are now functioning and because the time is ripe for passage of new laws to safeguard the electoral process, the committee is hopeful that, despite the excesses of Watergate, the Nation will return to its democratic ideals established almost 200 years ago.

## I. THE COMMITTEE AND ITS STAFF

As noted, the U.S. Senate created the Senate Select Committee on Presidential Campaign Activities on February 7, 1973, by unanimous adoption of S. Res. 60. The seven committee members appointed by the Senate leadership to answer the mandate of S. Res. 60 were Sam J. Ervin, Jr. (D-N.C.), chairman; Howard H. Baker, Jr. (R-Tenn.), vice chairman; Herman E. Talmadge (D-Ga.); Daniel K. Inouye (D-Hawaii); Joseph M. Montoya (D-N. Mex.); Edward J. Gurney (R-Fla.); and Lowell P. Weicker, Jr. (R-Conn.).

Like the Select Committee formed to investigate the "Teapot Dome" scandals nearly a half a century ago, the Senate "Watergate" Committee, as it was quickly renamed by the news media, was born in the crisis of a serious loss of confidence by the public in its national Gov-

ernment. At the time the committee was established, the trial of the Watergate burglars had been recently completed with the conviction of the seven defendants, all but two of whom had pleaded guilty. The trial was prosecuted on the theory that G. Gordon Liddy, former FBI agent and counsel for the Finance Committee To Re-Elect the President,<sup>3</sup> had masterminded the break-in of the Democratic National Committee headquarters and that no higher campaign or White House officials were involved. Chief Judge John Sirica, the presiding judge, never accepted this theory. His repeated questions to witnesses and the prosecution staff indicated his disbelief that criminal involvement stopped at Liddy. Courageous investigative reporters raised similar doubts in news stories and columns. The smell of coverup was in the air. S. Res. 60, passed after the Watergate trial concluded, evinces the Senate's belief that the Department of Justice could not be trusted fully to investigate and uncover the true story of Watergate. But no substantial indication of the magnitude of the Watergate affair had yet emerged.

The Senate Select Committee was given the broadest mandate to investigate completely not only the break-in of the DNC headquarters and any subsequent coverup, but also all other illegal, improper, or unethical conduct occurring during the Presidential campaign of 1972, including political espionage and campaign financing practices. All the investigative powers at the Senate's disposal were given the committee. Thus the committee had the power of subpoena, the power to grant limited or "use" immunity to witnesses to obtain their testimony<sup>4</sup> and the power to enforce the committee's subpoenas by initiating contempt procedures.

On February 21, 1973, at its first organizational meeting, the committee, on the recommendation of Chairman Ervin, unanimously appointed Professor Samuel Dash as chief counsel and staff director for the committee. Professor Dash had formerly been district attorney in Philadelphia, an active trial lawyer and chairman of the Section of Criminal Law of the American Bar Association. At the time of his appointment, Mr. Dash was professor of law and director of the Institute of Criminal Law and Procedure of Georgetown University Law Center. Shortly afterwards, Vice Chairman Baker, acting under the provisions of S. Res. 60, appointed as minority counsel Mr. Fred Thompson, a trial lawyer and former assistant U.S. attorney in Nashville, Tenn.

During the month of March, the chief counsel selected as deputy chief counsel Mr. Rufus Edmisten (who also served as chief counsel of the Senate Subcommittee on Separation of Powers) and his assistant chief counsel for the three areas of the investigation—Watergate break-in and coverup, campaign practices, and campaign financing. David M. Dorsen was assigned supervision of the campaign financing phase, including investigation of the milk fund affairs. Mr. Dorsen was especially aided in the milk fund investigation by assistant counsel Alan S. Weitz. Mr. Terry Lenzner took charge of the campaign practices phase and also headed the investigation into the Hughes-

<sup>3</sup> Hereinafter often referred to as FCRP.

<sup>4</sup> To grant "use" immunity is to insure a witness that his testimony, or the fruits of his testimony, will not be used against him directly or indirectly in any subsequent criminal procedure. See 18 U.S.C. 6002-6005.



Rebozo matter. Serving as Mr. Lenzner's principal aides in those investigations were assistant counsel Marc Lackritz and investigator Scott Armstrong. Mr. James Hamilton was assigned responsibility for the Watergate break-in and coverup phase; because of the rapid change in events, Messrs. Dorsen and Lenzner also spent considerable time on this phase. Mr. Hamilton, with the aid of assistant counsel Ronald D. Rotunda, special counsel Richard B. Stewart, and a number of expert consultants,<sup>5</sup> was also responsible for most of the committee's litigation efforts, including the preparation of the pleadings and briefs in its suit against the President, and, with Mr. Dorsen, supervised the investigation into the so-called Responsiveness Program. Both Mr. Dorsen and Mr. Lenzner had been assistant U.S. attorneys in the Southern District of New York, and Mr. Hamilton was a trial attorney with the Washington law firm of Covington and Burling.

Mr. Carmine Bellino, former FBI agent and a veteran of numerous important congressional investigations, was appointed chief investigator. Professor Arthur Miller of George Washington Law School was named chief consultant to the staff. Minority Counsel Fred Thompson appointed as his chief assistant and investigator Donald Sanders, a former FBI agent and chief counsel and staff director to the House Internal Security Committee.

Appointment of other lawyers, investigators, secretarial personnel, and research assistants followed over the next several months, bringing the staff to a peak strength of approximately 90 persons by August of 1973.

## II. INVESTIGATIVE PROCEDURES

On March 21, 1973, while the committee staff was still in its formative stages, James McCord, one of the convicted Watergate defendants, began the unraveling of the Watergate story by transmitting a sealed letter to Judge Sirica. On the morning of March 23, which had been set by Judge Sirica for the sentencing of the Watergate defendants, Judge Sirica in open court unsealed the letter and read aloud McCord's first accusations of perjury at the January 1973 Watergate trial and coverup.

At 1 p.m. the same day, Mr. McCord, through his attorney, called the Select Committee's chief counsel and offered to give information to the committee. The chief counsel met with Mr. McCord and his counsel that afternoon and the following day, and Mr. McCord testified before an executive session of the full committee early the following week. McCord's revelations to the committee were the first indication that former Attorney General John Mitchell, Counsel to the President John W. Dean III, and deputy director of the Committee for the Re-Election of the President<sup>6</sup> Jeb Stuart Magruder had participated in planning and discussion with G. Gordon Liddy respecting a large-scale covert intelligence operation that ultimately resulted in the Watergate break-in.

Although McCord had been a participant in the break-in, he had obtained information about the planning meetings and the later pay-

<sup>5</sup> Professor Arthur S. Miller, Professor Jerome A. Barron, Professor Donald S. Burris, Professor Sherman Cohn, and Eugene Gressman. The committee is particularly grateful to Professor Stewart who devoted many hours of his considerable talents to the committee's litigation efforts.

<sup>6</sup> Hereinafter often referred to as CRP.

ments of "hush" money to purchase silence through discussions with Liddy and others. Thus, the involvement of higher officials in Watergate activities could not be fully proved through McCord's testimony, since it was largely hearsay. Although a Senate investigating committee may receive hearsay testimony, the Select Committee decided, because of its desire to limit unfounded rumor and speculation, to employ a higher standard of proof for the establishment of crucial facts. It was thus decided that McCord's testimony would not be presented in public session unless it could be corroborated by other evidence.

Accordingly, the staff began an intensive investigation. Secretaries to key officials at CRP, the White House and the Department of Justice, as well as other staff personnel, were questioned and their records subpoenaed and examined. Gradually, corroboration for McCord's story emerged. A secretary's diary was uncovered which showed meetings in Mr. Mitchell's Justice Department office on January 27 and February 4, 1972, attended by Messrs. Mitchell, Dean, Magruder, and Liddy. A CRP staff member remembered Liddy's agitated search for an easel in the CRP offices on the morning of January 27. (McCord had told the committee that, according to Liddy, Liddy had that day made a show-and-tell presentation respecting his intelligence plan in the Attorney General's office using large cards on an easel.) A secretary recalled seeing Liddy with several large white cards wrapped in brown paper in the CRP offices prior to the January 27 meeting. The former FCRP treasurer, Hugh Sloan, informed the committee of Magruder's effort to suborn his perjury before the grand jury. Sloan also gave evidence as to the large amounts of cash paid to Liddy with Mr. Mitchell's approval for purposes concerning which Sloan said FCRP head Maurice Stans told him "I do not want to know and you don't want to know."<sup>1</sup>

As hundreds of details were collected, it became clear that the committee could corroborate with circumstantial evidence much of McCord's hearsay testimony. More importantly, in April certain of the principals involved—Mr. Magruder and Mr. Dean—signified their willingness to testify before the committee.

#### A. USE OF IMMUNITY POWERS

It was then that the use of immunity powers granted the committee became important. Magruder and Dean were being questioned by the U.S. attorneys in preparation for their grand jury testimony. They were targets for indictment and could not be expected to cooperate with the committee without a grant of use immunity. The committee voted immunity for these witnesses and others and thus secured the direct testimony of persons who had participated in criminal acts.

The staff, most of whom had been employed in April, had uncovered by the middle of May much of the evidence it was to present during the Watergate phase of the hearings, a result obtained by around-the-clock efforts. Also, the members of the committee held frequent executive committee meetings to receive staff progress reports, legal opinions and to vote use of subpoena and immunity powers to assist the

<sup>1</sup> 2 *Hearings* 539.

staff in obtaining the facts. In exercising its immunity power, the committee weighed carefully the determinative question whether the testimony to be gained was vital to the committee's investigation or would reveal the significant involvement of persons of greater rank. The committee did not seek an immunity order for any witness who could not meet these tests and would only provide information as to his own involvement in the Watergate affair.

In April, the committee announced that public hearings would begin May 17, 1973, on the Watergate and coverup phase of the investigation. While this provided only short lead time, the committee was deeply conscious of public concern about the true parameters of the Watergate matter. It thus believed public hearings should start as promptly as possible. The committee opened its hearings on May 17, 1973, and maintained its hearing schedule, which increased from 3 to 5 days a week, without interruption (except for two brief recesses) until August 7, 1973. Thirty-seven witnesses testified during this period, hundreds of exhibits and documents were introduced into the record, and over 3,000 pages of testimony were transcribed. The committee's hearings on the Watergate break-in and coverup phase constituted the longest uninterrupted congressional hearings in the history of the Congress.

#### B. "SATELLITE" CHARTS ON KEY WITNESSES

While many techniques to gain evidence were used, one investigative strategy in particular was responsible for some of the staff's most significant results, including the discovery of the White House taping system. In regard to each major witness, the chief counsel assigned a team of lawyers and investigators to collect as much evidence as possible respecting this witness from secondary sources. To accomplish this most efficiently, each team prepared what the staff came to call a "satellite" chart for every major witness. Plotted on the chart would be the name and position of every person who had a significant contact with the witness during relevant time periods and who had been in a position to receive pertinent information and records. One principal witness alone had 60 satellites on his chart. Each satellite witness was interviewed by the staff and his or her records subpoenaed and examined. The now famous ITT memorandum from Charles Colson to H. R. Haldeman was obtained from a satellite on Mr. Colson's chart.<sup>8</sup> And Mr. Butterfield, who revealed the White House taping system, was interviewed simply because he was a satellite on Mr. Haldeman's chart.

After John Dean informed the committee that he suspected that the President had taped a conversation between them in the Oval Office on April 15, 1973, some potentially knowledgeable witnesses were asked whether the President did, in fact, tape conversations. When Deputy Minority Counsel Donald Sanders asked Mr. Butterfield whether he knew of any facts supporting Dean's intimation that conversations in the President's office were tape recorded, Butterfield responded by informing the committee of the White House taping system. Then, in response to an earlier question by investigator Scott

<sup>8</sup> Exhibit 121, 8 *Hearings* 3372-76.

Armstrong, Butterfield stated that the reconstruction of the President's conversations with John Dean, which had been given the committee by Special Counsel to the President J. Fred Buzhardt, must have been prepared by use of the tapes of those meetings.

### C. COMPUTER OPERATIONS

Another important investigative tool was the computer of the Library of Congress whose capabilities were offered the committee shortly after its formation. The committee accepted this offer and developed a computer staff to utilize this facility. To the committee's knowledge, this was the first time a congressional investigating committee employed a computer for the storage of information for investigative and analytical purposes.<sup>9</sup>

Almost all of the committee's investigative files and records were stored on computer tapes including documentary records, witness interviews, executive sessions, public sessions, depositions in related civil cases, the transcript of the first Watergate trial, and certain newspaper clippings for the period from June 17, 1972, through the investigative phase. Computer printouts on individual witnesses permitted the staff to retrieve all available information respecting a given witness. Thus discrepancies in testimony could easily be spotted and relevant documents identified for use in examination. The computer also proved a valuable tool for preparation of the committee's final report.

On the basis of its experience, the committee recommends the use of computer technology in future congressional investigations. It also notes that the computer staff has provided the Special Prosecutor and the House Judiciary Committee with a complete duplicate of its computer tape, and that committee's impeachment inquiry thus had at its disposal the Select Committee's complete computer input.

### D. OTHER INVESTIGATIVE PROCEDURES

The committee employed a variety of procedures for obtaining facts. Witnesses were usually interviewed informally and not under oath. Hundreds of witnesses were interviewed either in the committee offices in the New Senate Office Building or at various places throughout the country. In cases where the witness was testifying under a grant of immunity or it was otherwise important to have his or her testimony under oath, the witness was examined in executive session. Oaths for executive sessions were administered by a member of the committee and verbatim transcriptions of testimony prepared.

Thousands of documents, records and other tangential evidentiary materials were subpoenaed by the committee, examined by the staff and the committee, and stored in secure files. The committee's investigation was aided by the fact that the staffs of the White House and CRP frequently recorded their activities in documentary form. It appeared to be the practice of the officials involved to circulate duplicate copies of various memoranda throughout the White House and CRP and the files of CRP were filled with duplicate copies of memo-

<sup>9</sup> A report on the computer technology used appears in Chapter 10, *infra*.

randa written by top White House officials. After the 1972 election, CRP delivered its files to the National Archives. When the Select Committee learned this had occurred, a subpoena for these files was issued and, over a period of months, staff investigators examined a vast collection of documents stored at the Archives. A great number of "confidential/eyes only" memoranda thus became available for the committee's inspection. A significant number of the memoranda revealed during the public hearings and/or embodied in this final report came from this source.

### III. THE PUBLIC HEARINGS

The character of the committee's hearings resulted from considerable planning and a basic philosophy. The committee, aware of the gravity of the national scandal it was investigating and the fact that its activities would be highly publicized, was determined to present dignified, objective hearings. It recognized that the ultimate impact of its work depended upon obtaining and keeping public confidence.

In part for these reasons, the committee resisted calling certain so-called "big name" witnesses at the beginning of its hearings. The committee and staff wished to present a careful presentation of the evidence, establishing a foundation for the later testimony that implicated high Government and campaign officials. Early witnesses of lesser stature that enabled the public to understand the context in which the Watergate affair unfolded were essential. The chief counsel and staff recommended this "building block" approach to the committee and the committee unanimously adopted it.

The committee followed a practice not typical of certain congressional hearings. It refrained from calling a witness in public session that it knew would refuse to testify on the assertion of the fifth amendment privilege against self-incrimination. When a witness in executive session claimed this constitutional right and declined to answer the committee's queries, the matter ended and the witness was not required to assert his privilege in public session. This policy was instituted upon the recommendation of the chief counsel, with which the committee agreed, on the belief that no legislative purpose would be served by public exhibitions of witnesses who claimed their privilege.

The committee believed it was important that its public hearings be televised. Live television coverage occurred during the first phase of the committee's hearings covering the Watergate break-in and the coverup. Public Television carried, through its evening gavel-to-gavel coverage, most of the committee's public hearings.

The committee's interest in televised hearings was not to obtain publicity for publicity's sake. The facts which the committee produced dealt with the very integrity of the electoral process; they were facts, the committee believed, the public had a right to know. Most citizens are not able personally to attend the working sessions of their Government. Although thousands of people spent short periods in the Caucus Room during the hearings, these visitors represented only a small percentage of the electorate. Thus, it was desirable that every citizen be able to view the hearings, if not in the Caucus Room, then in his home or place of business. The ability to read about the hearings in the printed media was not sufficient. The full import of the hearings could

only be achieved by observing the witnesses and hearing their testimony.

It was for this reason that the committee opposed the efforts in Federal court of Special Prosecutor Cox to proscribe television and radio coverage of the testimony of Magruder and Dean. The Special Prosecutor's expressed concern was that public hearings might prejudice future criminal trials. It was the committee's position that they would not, but, even if they did, it was more important in this period of crisis and national concern that the full facts be promptly made known. The public should not have to wait a year or more until the Watergate trials were over to know the scope of the corruption in its Government.

The court supported the committee's position and refused to interfere with the committee's public hearings. The committee believes that its position has proven correct and that its public hearings awakened the public to the perils posed by the Watergate affair to the integrity of the electoral process and our democratic form of government.

Perhaps proof of the impact of the committee's hearings is found in the unprecedented public response to the firing of Special Prosecutor Cox on October 20, 1973. On that weekend alone, a half million telegrams came to the Congress. Hundreds of thousands of telegrams flowed in during the following days. The overwhelming sentiment of these telegrams was in opposition to the President's action. It is doubtful that public sentiment would have been so aroused by the President's action had the public not been sensitized to the issues involved through the committee's hearings.

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The committee wishes to note, before it proceeds to present its findings, that it has received no evidence suggesting any complicity in wrongdoing on the part of the Republican National Committee or the Democratic National Committee or their principal officers during the Presidential campaign of 1972.<sup>10</sup>

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<sup>10</sup> During the time covered by this investigation, the chairman of the Republican National Committee was Senator Robert Dole and the Chairman of the Democratic National Committee was Lawrence F. O'Brien.

## CHAPTER 1

### The Watergate Break-in and Coverup

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The Watergate drama is still unfolding.<sup>1</sup> Because all the facts are not yet in, because all the Watergate criminal trials and the impeachment proceeding are not concluded, and because the President has refused to produce to the Select Committee many crucial tape recordings and other evidence, this report—although it is the committee's final report—is incomplete. And this report is limited in another way. Because of the massive amount of evidence now available as to Watergate developed in the committee's hearings and elsewhere, it is impossible in a document of reasonable length to deal with every fact or every version of the facts. The committee, therefore, in preparing this report, has exercised its judgment as to what facts are important and which versions of disputed facts should be included. Others may disagree with our account, but it is the committee's mandate under S. Res. 60 to present the Watergate affair to the public as it sees it.

#### I. THE WATERGATE BREAK-IN AND ITS PRELUDE

In the early morning hours of June 17, 1972, James McCord, Bernard L. Barker, Frank Sturgis, Eugenio Martinez and Virgilio Gonzales illegally entered the Democratic National Committee headquarters on the sixth floor of the Watergate Office Building.<sup>2</sup> Nearby, in a room in the Watergate Hotel, Howard Hunt and G. Gordon Liddy, the supervisors of this burglary operation, stood by keeping in walkie-talkie communication with Alfred Baldwin who served as a lookout across the street from the Watergate complex in the Howard Johnson Motor Lodge.<sup>3</sup> The mission was ill-fated. Within a short time after the break-in, a Washington Metropolitan Police Department plainclothes unit in an unmarked car responded to a call to assist a guard at the Watergate Office Building.<sup>4</sup> The guard, Frank Wills, had become suspicious when, for the second time that night, he found masking tape on the edge of a door in the garage leading to the office building.<sup>5</sup> The tape had been placed to hold back the locking mechanism, permitting the door to be opened without a key.<sup>6</sup> Earlier that night, Wills had removed tape from the same door thinking it had been inadvertently left by a building engineer.<sup>7</sup>

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<sup>1</sup> This report was prepared prior to the official public release of any statements of evidence and materials by the Judiciary Committee of the House of Representatives.

<sup>2</sup> 1 *Hearings* 128.

<sup>3</sup> 1 *Hearings* 158, 402; 9 *Hearings* 3688; Hunt executive session, Sept. 10, 1973, pp. 37-8.

<sup>4</sup> 1 *Hearings* 96.

<sup>5</sup> Wills interview, May 22, 1973, pp. 2-3.

<sup>6</sup> 1 *Hearings* 98.

<sup>7</sup> Wills interview, May 22, 1973, pp. 1-2.

The plainclothes unit, under the direction of Sergeant Paul Leeper,<sup>8</sup> entered the Watergate Office Building stairwell through the garage door and ascended to the eighth floor. The policemen worked their way down to the sixth floor level and entered that floor through the stairwell door which they found unlocked by the same masking tape technique employed on the garage door.<sup>9</sup>

Alfred Baldwin, across the street at the Howard Johnson Motor Lodge, at first took no interest in the unmarked car which parked in front of the Watergate Office Building and in the casually dressed individuals who entered the building.<sup>10</sup> That a plainclothes police squad in an unmarked car answered the police dispatcher's call was fortuitous. The call initially went out to a marked police car but that vehicle was on its way to a gasoline station. The dispatcher thus repeated the call for any tactical unit in the vicinity of the Watergate.<sup>11</sup> Had the marked police car answered the call and had uniformed policemen entered the office building, Baldwin would have immediately taken notice and alerted the burglars who might have escaped. The true nature of the break-in might not have been discovered and there might have been no need for the massive coverup that followed which, when exposed, became the most serious political scandal in the Nation's history.

Baldwin did not become alarmed until he noticed lights go on in the building—first on the eighth floor, then on the sixth—and saw two casually dressed individuals emerge on the sixth floor terrace of the DNC headquarters, one holding a pistol. Then he radioed Hunt and Liddy and asked “are our people in suits or are they dressed casually?” When the answer came back, “Our people are dressed in suits. Why?” Baldwin replied “You have some trouble because there are some individuals around here who are dressed casually and have got their gun out.” Within minutes, Sergeant Leeper and his unit discovered the five burglars and arrested them.<sup>12</sup> Hunt and Liddy, however, escaped unnoticed from the Watergate Hotel. Baldwin was told by Hunt to leave the Motor Lodge, which he promptly did.<sup>13</sup>

Subsequently Hunt and Liddy were indicted with the five men apprehended in the DNC headquarters (*United States v. Liddy, et al.*, indictment of September 15, 1972) and Baldwin became a principal Government witness against his former co-conspirators. All defendants initially pleaded not guilty. But, as the trial opened in early January 1973, Hunt, Barker, Sturgis, Martinez, and Gonzales changed their pleas to guilty.<sup>14</sup> The remaining defendants—McCord and Liddy—were found guilty<sup>15</sup> after a trial that left a number of questions which disturbed the trial judge, Congress and the American people. The crimes of wiretapping, burglary and conspiracy had been proved. But, why had these crimes been committed? Who sponsored them? What were the motivations? Was the break-in, as the White House immediately claimed, merely a “third-rate burglary”?

<sup>8</sup> 1 Hearings 95.

<sup>9</sup> 1 Hearings 103-4.

<sup>10</sup> 1 Hearings 403.

<sup>11</sup> 1 Hearings 96.

<sup>12</sup> 1 Hearings 404.

<sup>13</sup> 1 Hearings 405.

<sup>14</sup> *United States v. George Gordon Liddy* (D.D.C. Crim. No. 1827-72), transcript of proceedings, January 11, 15, 1973, pp. 106-129 and 357-423 (hereinafter referred to as Watergate trial transcript).

<sup>15</sup> Watergate trial transcript, p. 2247.



This report attempts to put this crime in focus. We discuss below the background and planning that led to the break-in as well as other activities by the burglary team now uncovered. We then deal with the extensive coverup that followed the apprehension of the burglars.

## A. THE BACKGROUND OF WATERGATE

The Watergate break-in cannot be understood unless viewed in the context of similar White House activities. The evidence presented below shows that, from the early days of the present administration, the power of the President was viewed by some in the White House as almost without limit; especially when national or internal security was invoked, even criminal laws were considered subordinate to Presidential decision or strategy. The manifestations of this philosophy that preceded the Watergate break-in are now discussed.

### 1. THE HUSTON PLAN

The earliest evidence that this concept of presidential power existed is found in a 1970 top secret document entitled "Operational Restraints on Intelligence Collection,"<sup>16</sup> and the various memorandums from Tom Charles-Huston to H. R. Haldeman which were first revealed by John Dean.<sup>17</sup> In preparation for his testimony before the Select Committee, Dean placed these papers, some of which bore the highest security classification, in the custody of Chief Judge John Sirica of the U.S. District Court for the District of Columbia. This step was taken by Dean, on the advice of counsel, to avoid violation of any Presidential directive of Federal laws prohibiting release of Government documents affecting national security. After due consideration, Judge Sirica released one copy of these papers to the Department of Justice and one copy to the Select Committee, pursuant to its motion. (*United States v. John Doe, et al.*, Misc. No. 77-73, May 14, 1973.)

The committee, with the aid of various intelligence agencies, reviewed these documents. While the committee sealed a few items therein, which could involve national security considerations, it concluded that these papers, for the most part, dealt primarily with domestic affairs and were unrelated to national security matters.<sup>18</sup> The papers, as sanitized by the committee, were entered into the committee's record during Dean's testimony.<sup>19</sup>

These papers and the President's own statement of May 22, 1973, disclose that the President approved the use of illegal wiretapping, illegal break-ins and illegal mail covers for domestic intelligence purposes. The President was fully advised of the illegality of these intelligence-gathering techniques prior to approving them. In the top secret document entitled "Operational Restraints on Intelligence Collection," the recommendation for surreptitious entries (break-ins) contained the following statement under the heading "Rationale":

Use of this technique is clearly illegal. It amounts to burglary. It is also highly risky and could result in great embarrassment if exposed. However, it is also the most fruitful

<sup>16</sup> Exhibit 35, 3 *Hearings* 1062, 1319.

<sup>17</sup> Exhibits 36-40, 42, 3 *Hearings* 1062, 1324-33, 1338.

<sup>18</sup> 3 *Hearings* 1060, 1062.

<sup>19</sup> Exhibits 35-41, 3 *Hearings* 1062, 1319-37.

tool and can produce the type of intelligence which cannot be obtained in any other fashion.<sup>20</sup>

On July 14, 1970, Haldeman sent a top secret memorandum to Huston, notifying him of the President's approval of the use of burglaries, illegal wiretaps and illegal mail covers for domestic intelligence. In the memorandum, Haldeman stated:

The recommendations you have proposed as a result of the review, have been approved by the President. He does not, however, want to follow the procedure you outlined on page 4 of your memorandum regarding implementation. He would prefer that *the thing simply be put into motion* on the basis of this approval. The formal official memorandum should, of course, be prepared and that should be the device by which to carry it out . . .<sup>21</sup> [emphasis added]

It appears that the next day, July 15, 1970, Huston prepared a decision memorandum, based on the President's approval, for distribution to the Federal intelligence agencies involved in the plan—the FBI, the CIA, the National Security Agency and the Defense Intelligence Agency.<sup>22</sup> In his May 22, 1973, public statement, the President reported that the decision memorandum was circulated to the agencies involved on July 23, 1970. However, the decision memorandum is dated July 15, 1970, indicating that it was forwarded to the agencies on that day or shortly thereafter.<sup>23</sup>

Huston's recommendations were opposed by J. Edgar Hoover, Director of the FBI.<sup>24</sup> Hoover had served as the chairman of a group comprised of the heads of the Federal intelligence agencies formed to study the problems of intelligence-gathering and cooperation among the various intelligence agencies.<sup>25</sup> In his public statement of May 22, 1973, President Nixon stated:

After reconsideration, however, prompted by the opposition of Director Hoover, the agencies were notified 5 days later, on July 28, that the approval had been rescinded.

Haldeman's testimony is to the same effect.<sup>26</sup> Dean, however, testified that he was not aware of any rescission of approval for the plan<sup>27</sup> and there apparently is no written record of a rescission on July 28 or any other date. There is, however, clear evidence that, after receipt of the decision memorandum of July 15, 1970, Mr. Hoover did present strong objections concerning the plan to Attorney General Mitchell.<sup>28</sup>

Huston was concerned that Hoover's objections would interfere with the plan's implementation. On August 5, 1970, 8 days *after* the President states he ordered rescission, Huston sent Haldeman a lengthy top secret memorandum on the subject, "Domestic Intelligence," which strongly attacked Hoover's objections and made a number of recommendations concerning a forthcoming meeting regarding the plan

<sup>20</sup> Exhibit 35, 3 *Hearings* 1321.

<sup>21</sup> Exhibit 36, 3 *Hearings* 1324.

<sup>22</sup> *New York Times*, June 7, 1973, p. 36.

<sup>23</sup> *New York Times*, June 7, 1973.

<sup>24</sup> 3 *Hearings* 916.

<sup>25</sup> Appendix of Legal Documents at p. 628.

<sup>26</sup> 7 *Hearings* 2874.

<sup>27</sup> 3 *Hearings* 1066.

<sup>28</sup> 3 *Hearings* 916; 4 *Hearings* 1603.

among Haldeman, the Attorney General and Hoover.<sup>29</sup> Indicative of the fact that the plan was still quite alive, but imperiled by Hoover, is the following language in this memorandum:

At some point, Hoover has to be told who is President. He has become totally unreasonable and his conduct is detrimental to our domestic intelligence operations . . . It is important to remember that the entire intelligence community knows that the President made a positive decision to go ahead and Hoover has now succeeded in forcing a review. If he gets his way, it is going to look like he is more powerful than the President. He had his say in the footnotes and RN decided against him. That should close the matter and I can't understand why the AG is a party in reopening it. All of us are going to look damned silly in the eyes of Helms, Gayler, Bennett, and the military chiefs if Hoover can unilaterally reverse a Presidential decision based on a report that many people worked their asses off to prepare and which, on the merits, was a first-rate, objective job.<sup>30</sup>

It should be noted that this memorandum indicates that the NSA, DIA, CIA and the military services basically supported the Huston recommendations.

Two days later, on August 7, 1970, Huston sent a brief, confidential memorandum to Haldeman urging that Haldeman "meet with the Attorney General and secure his support for the President's decision, that the Director (Hoover) be informed that the decision will stand, and that all intelligence agencies are to proceed to implement them at once."<sup>31</sup> Huston noted that: "Mr. Hoover has departed for the west coast to vacation for 3 weeks. If you wait until his return to clear up the problems surrounding our domestic intelligence operations, we will be into the new school year without any preparations."<sup>32</sup>

Later, on September 18, 1970 (almost 2 months after the President claims the plan was rescinded), Dean sent a top secret memorandum to the Attorney General suggesting certain procedures to "*commence our domestic intelligence operation as quickly as possible.*" [emphasis added] This memorandum specifically called for the creation of an Inter-Agency Domestic Intelligence Unit which had been an integral part of the Huston plan. Dean's memorandum to the Attorney General observed that Hoover was strongly opposed to the creation of such a unit and that it was important "to bring the FBI fully on board." Far from indicating that the President's approval of Huston's recommendation to remove restraints on illegal intelligence-gathering had been withdrawn, Dean, in his memorandum, suggested to the Attorney General:

I believe we agreed that it would be inappropriate to have any blanket removal of restrictions; rather, the most appropriate procedure would be to decide on the type of intelligence we need, based on an assessment of the recommendations of

<sup>29</sup> Exhibit 37, 3 *Hearings* 1325-29.

<sup>30</sup> Exhibit 37, 3 *Hearings* 1326.

<sup>31</sup> Exhibit 38, 3 *Hearings* 1330.

<sup>32</sup> *Ibid.*

this unit, and then proceed to *remove the restraints as necessary to obtain such intelligence.*<sup>33</sup> [emphasis added]

Dean's memorandum indicated that the creation of the Inter-Agency Domestic Intelligence Unit would go forward and provided recommendations for the choosing of a unit director to serve as a "righthand man" to the Attorney General and for the selection of representatives from the various intelligence agencies who would serve on it. Dean closed his memorandum with the suggestion that the Attorney General call weekly meetings to monitor problems as they emerged and "to make certain that we are *moving this program into implementation as quickly as possible.*"<sup>34</sup> [emphasis added] Recognizing that Hoover was still a problem, Dean added a note to the bottom of his memorandum: "Bob Haldeman has suggested to me that if you would like him to join you in a meeting with Hoover he will be happy to do so."<sup>35</sup>

Hoover, however, never did come completely "on board" and the plan for an Inter-Agency Domestic Intelligence Unit was never implemented. A clue to the fate of the Huston plan is provided by the edited, unauthentic "Submission of Recorded Presidential Conversations to the Judiciary Committee of the House of Representatives by President Richard Nixon", on April 30, 1974, where the following passage appears:

D. . . . what Bill Sullivan's desire in life is, is to set up a domestic national security intelligence system, a White House program. He says we are deficient. He says we have never been efficient, because Hoover lost his guts several years ago. If you recall he and Tom Huston worked on it. Tom Huston had your instructions to go out and do it and the whole thing just crumbled.

P [Inaudible.]<sup>36</sup>

Dean testified that the plan for the creation of an Inter-Agency Domestic Intelligence Unit was the product of White House fear of demonstrations and dissent.<sup>37</sup> Haldeman denied that such an atmosphere of fear existed in the White House.<sup>38</sup> In his statement before the committee, Haldeman gave as the reason for White House interest in improving intelligence-gathering operations the "critical proportions" of the domestic security problem in 1970 as illustrated by "a wave of bombings and explosions, rioting and violence, demonstrations, arson, gun battles and other disruptive activities across the country—on college campuses primarily—but also in other areas."<sup>39</sup> On this issue, Ehrlichman's testimony corroborates Haldeman's.<sup>40</sup>

The Huston recommendations themselves refer to "a major threat to the internal security"<sup>41</sup> and express the belief that "the potential for even greater violence is present and we have a positive obligation to take every step within our power to prevent it . . . for surely drastic violence and disorder threaten the very fabric of our society."<sup>42</sup>

<sup>33</sup> Exhibit 41, 3 *Hearings* 1335.

<sup>34</sup> Exhibit 41, 3 *Hearings* 1337.

<sup>35</sup> *Ibid.*

<sup>36</sup> Edited Presidential Conversations, pp. 123-4.

<sup>37</sup> 3 *Hearings* 916.

<sup>38</sup> 7 *Hearings* 2874.

<sup>39</sup> *Ibid.*

<sup>40</sup> 6 *Hearings* 2512-13.

<sup>41</sup> Exhibit 35, 3 *Hearings* 1319.

<sup>42</sup> Exhibit 37, 3 *Hearings* 1327-28.

The committee notes that the evidence presented to Senator McClellan's Permanent Subcommittee on Investigations of the Senate Committee on Government Operations, in hearings beginning in July 1970, indicates that, in the several years preceding the hearings, there were significant increases in illegal acts of violence directed against Government facilities and a disturbing number of such acts directed against law enforcement officials.<sup>43</sup>

Dean testified, however, that the White House concern was directed not only toward violent demonstrations, but also to peaceful demonstrations and dissent. As an illustration he said:

... [D]uring the late winter of 1971 ... the President happened to look out of the windows of the residence of the White House and saw a lone man with a large 10-foot sign stretched out in front of Lafayette Park. Mr. Higby called me to his office to tell me of the President's displeasure with the sign in the park and told me that Mr. Haldeman said the sign had to come down. When I came out of Mr. Higby's office, I ran into Mr. Dwight Chapin who said that he was going to get some "thugs" to remove that man from Lafayette Park. He said it would take him a few hours to get them, but they could do the job.<sup>44</sup>

## 2. THE ENEMIES LIST

The White House's apparent concern over dissent and opposition is reflected in an organized effort to compile a constantly updated list of the administration's "enemies." The basic rationale for maintenance of the enemies list is specified in an August 16, 1971, memorandum prepared by Dean for Haldeman, Ehrlichman and others.<sup>45</sup>

It reads in relevant part:

### *Dealing with our Political Enemies*

This memorandum addresses the matter of how we can maximize the fact of our incumbency in dealing with persons known to be active in their opposition to our Administration. *Stated a bit more bluntly—how can we use the available federal machinery to screw our political enemies.*

\* \* \* \* \*

In brief, the system would work as follows:

Key members of the staff (e.g., Colson, Dent, Flanigan, Buchanan) should be requested to inform us as to who they feel we should be giving a hard time.

The project coordinator should then determine what sorts of dealings these individuals have with the Federal government and *how we can best screw them (e.g., grant availability, Federal contracts, litigation, prosecution, etc.).*

<sup>43</sup> See generally, 24 Hearings Before the Permanent Subcommittee on Investigations, at 5313 et seq.

<sup>44</sup> 3 Hearings 917.

<sup>45</sup> 4 Hearings 1349-50.

The project coordinator then should have access to and the full support of the top officials of the agency or department in proceeding to deal with the individual.

\* \* \* \*

As a next step, I would recommend that we develop a small list of names—not more than ten—as *our targets for concentration*. Request that Lyn [Nofziger] “do a job” on them and if he finds he is getting cut off by a department or agency, that he inform us and we evaluate what is necessary to proceed. . . . (emphasis added)<sup>46</sup>

Dean’s advice to limit the list to not more than ten was not followed. Even before this memorandum, George T. Bell circulated to Dean, Jerry Warren and Van Shumway a sizeable “list of opponents” that “would be useful from time to time.”<sup>47</sup> The list contained such comments next to various names as: “A scandal would be most helpful here;” “Positive results would stick a pin in Jackson’s white hat;” “Has known weakness for white females;” “A real media enemy.”<sup>48</sup> On September 9, 1971, Colson sent the same list to Dean, with blue check marks next to the “enemies” who were “top priority.” Colson concluded: “. . . I think you will find this is a pretty good list. Right on!”<sup>49</sup> Other exhibits indicate that the list was constantly updated and expanded to include businessmen, actors and actresses, labor leaders, reporters, Senators and Representatives, civil rights leaders, McGovern aides, leaders of peace organizations, general “anti-Nixon” people, Democratic contributors and others.<sup>50</sup>

Dean testified that the plan to penalize administration enemies was considered important to Haldeman, Ehrlichman, and others.<sup>51</sup> Strachan testified that he believed that the Enemies List “was in existence when I arrived at the White House in [August 1970] . . . [T]he list was maintained by Colson’s office . . .”<sup>52</sup>

White House efforts to use the Federal bureaucracy to punish its supposed enemies are further reflected in committee exhibits 44 and 65.<sup>53</sup> Exhibit 44 is a memorandum and briefing paper prepared for Haldeman for a meeting with the head of the Internal Revenue Service (which came from John Dean’s White House file) entitled “Opponents List and Enemies Project.”<sup>54</sup> The memorandum is undated and not marked other than its heading: “*To accomplish: Make IRS politically responsive.*”<sup>55</sup> Attached to this memorandum is an “*I.R.S. Talking Paper*” that concludes with the following:

[Johnnie] Walters [of the IRS] must be made to know that discreet political actions and investigations on behalf of the Administration are a firm requirement and responsibility on his part.

We should have direct access to Walters for action in the sensitive areas and should not have to clear them with Treasury.

<sup>46</sup> Exhibit 48, 4 *Hearings* 1689–90.

<sup>47</sup> Exhibit 49, 4 *Hearings* 1693.

<sup>48</sup> *Id.* at 1695–96.

<sup>49</sup> Exhibit 49, 4 *Hearings* 1692.

<sup>50</sup> Exhibits 50–65, 4 *Hearings* 1693–1753.

<sup>51</sup> 4 *Hearings* 1527.

<sup>52</sup> Strachan executive session, July 12, 1973, p. 15.

<sup>53</sup> 4 *Hearings* 1682, 1753.

<sup>54</sup> 4 *Hearings* 1349.

<sup>55</sup> 4 *Hearings* 1682.

Dean should have access and assurance that Walters will get the job done properly! <sup>56</sup>

Dean recalled that, after an article was published in *Newsday* on Charles ("Bebe") Rebozo, one of the President's closest friends, Dean was told that the "authors of that article should have some problems." <sup>57</sup> Dean discussed this with John Caulfield, who had friends in the IRS. (Dean was reluctant to discuss it with Walters.) Dean recalls that the IRS did audit the newsman involved. <sup>58</sup>

It appears other "enemies" were also subjected to IRS investigation and audit. During the September 15, 1972, meeting with the President, "Dean reported on IRS investigation of Larry O'Brien," according to information Fred Buzhardt, Special Counsel to the President, provided to minority counsel. <sup>59</sup> In a memorandum of June 12, 1972, to Dean, Colson wrote that there should be an IRS audit of a union official who "you should know is an all out enemy, a McGovernite, ardently anti-Nixon . . . Please let me know if this one can be started on at once and if there is an informer's fee, let me know. There is a good cause at which it can be donated." <sup>60</sup>

In Dean's meeting with the President on September 15, 1972, the President, Dean and Haldeman discussed retaliation against administration "enemies," according to a purported transcript of this meeting prepared by the House Judiciary Committee published in the *Washington Post* on May 17, 1974, at pp. A 26-8. This transcript indicates the President may have known of the enemies list. Haldeman, at the beginning of this meeting, referred to the fact that Colson "has gone through, you know, has worked on the list, and Dean's working the, the thing through IRS and, uh, in some cases, I think . . ." The President allegedly replied, "Yeah." Other relevant excerpts from this September 15 meeting based on the Judiciary Committee's purported transcript appear below, with emphasis added:

H. [Unintelligible words] John (Dean), he is one of the quiet guys that gets a lot done. That was a good move, too, bring Dean in. But its—

P. Yeah.

H. It—He'll never, he'll never gain any ground for us. He's just not that kind of guy. But, he's the kind that enables other people to gain ground while he's making sure that you don't fall through the holes.

P. Oh. You mean—

H. Between times, *he's doing, he's moving ruthlessly on the investigation of McGovern people, Kennedy stuff, and all that too.* I just don't know how much progress he's making, 'cause I—

P. The problem is that's kind of hard to find.

H. Chuck, Chuck has gone through, *you know, has worked on the list,* and Dean's working the, the thing *through IRS* and, uh, in some cases, I think, some other (unintelligible)

<sup>56</sup> 4 *Hearings* 1684.

<sup>57</sup> 3 *Hearings* 1072.

<sup>58</sup> *Ibid.*

<sup>59</sup> Exhibit 70A, 4 *Hearings* 1796. Dean's reference to the use of the IRS to attack "enemies" is supported by a recent Federal court decision where the court found that, in the plaintiff's case, the White House not only attempted but was successful in corruptly influencing the IRS. *Center for Corporate Responsibility v. Shultz* 363 F. Supp. 863 (D.D.C. 1973) (C.A. No. 846-73).

<sup>60</sup> Exhibit 45, 4 *Hearings* 1686.

things. He's—He turned out to be tougher than I thought he would, which is what——

P. Yeah.

\* \* \* \*

P. Well, just remember all the trouble they made us on this. *We'll have a chance to get back at them one day.* How are you doing on your other investigations? Your—How does this (unintelligible).

D. I'm just about the end of the, uh——

H. What's happened on the bug?

P. Hard, hard to find—on the what?

H. The bug.

\* \* \* \*

P. Perhaps the Bureau ought to go over——

H. *The Bureau ought to go into Edward Bennett Williams and let's start questioning that son-of-a-bitch.* Keep him tied up for a couple of weeks.

P. *Yeah, I hope they do.* They—The Bureau better get over pretty quick and get that red box. We want it cleared up (unintelligible).

D. That's exactly the way I, I gave it to Gray, I, uh, uh,——

\* \* \* \*

D. On this case. Uh, there is some bitterness between for example, the finance committee and the political committee. They feel that they're taking all the heat, and, and, uh, all the people upstairs are bad people and they're not being recognized.

P. Ridiculous.

D. It is—I mean——

P. They're all in it together.

D. That's right.

P. *They should just, uh, just behave and, and, recognize this, this is again, this is war.* We're getting a few shots and it'll be over, and we'll give them a few shots, and it'll be over. Don't worry. (Unintelligible), and I wouldn't want to be on the other side right now. Would you? *I wouldn't want to be in Edward Bennett Williams', Williams' position after this election.*

D. No. No.

P. None of these bastards.

D. He, uh, he's done some rather unethical things that have come to light already, which he, again, Richey has brought to our attention.

P. Yeah?

D. He went down——

H. Keep a log on all that——

D. Oh, we are, indeed, we are.

P. Yeah.

H. Because afterwards that is a guy——

P. We're going to——

H. That is a guy we've got to ruin.

D. He had, he had an ex parte——



P. You want to remember, too, he's an attorney for the Washington Post.

D. I'm well aware of that.

P. *I think we are going to fix the son-of-a-bitch. Believe me. We are going to. We've got to, because he's a bad man.*

D. Absolutely.

P. He misbehaved very badly in the Hoffa matter. Our—some pretty bad conduct, there, too, but go ahead.

D. Well, that's uh, along the line, uh, one of the things I've tried to do, is just keep notes on a lot of the people who are emerging as—

P. That's right.

D. As less than our friends.

P. Great!

D. Because this is going to be over someday and they're—We shouldn't forget the way some of them have treated us.

P. I want the most—I want the most comprehensive notes on all those who tried to do us in. Because they didn't have to do it.

D. That's right.

P. They didn't have to do it. I mean, if the thing had been clo—uh, they had a very close election everybody on the other side would understand this game. But now they are doing this quite deliberately and they are asking for it and they are going to get it. And this, this, we—we have not used the power in this first four years, as you know.

D. That's right.

P. We have never used it. *We haven't used the Bureau and we haven't used the Justice Department, but things are going to change now.* And they're going to change, and, and they're going to get it right.

D. That's an exciting prospect.

P. It's got to be done. It's the only thing to do.

\* \* \* \* \*

D. Well, there has been some extensive clipping by the counsel in this case, and I've gone through some of these clippings and it's just phenomenal the, uh—

P. Yeah.

D. The amount of coverage this case is getting. They may never get a fair trial, may never get a fair—I mean they'll never get a jury that can convict them or pull it together. And the Post, as you know, has got a, a, a real large team that they've assigned to do nothing but this, sh—, this case. Couldn't believe they put Maury Stans' story about his libel suit, which was just playing so heavily on the networks last night, and in the evening news, they put it way back on about page 8 of the Post.

P. Sure.

D. And didn't even cover it as a—in total.

P. I expect that, that's all right. We've (unintelligible).

H. *The Post* (unintelligible).

P. *It's going to have its problems—*

H. (Unintelligible).

D. (Unintelligible) The networks are good with Maury coming back 3 days in a row and (unintelligible).

P. That's right. The main, main thing is *The Post is going to have damnable, damnable problems out of this one. They have a television station.*

D. That's right, they do.

P. Does that come up too? The point is, when does it come up?

D. I don't know. But the practice of non-licensees filing on top of licensees has certainly gotten more—

P. That's right.

D. More active in the, this area.

P. And it's going to be God damn active here.

D. (Laughter) (Silence)

P. *Well, the game has to be played awfully rough.* I don't know, well now, you, you'll follow through with who will over there? Who—Timmons, or a Ford, or a (unintelligible) there are a number of Republicans.

### 3. THE PLUMBERS

In June 1971, the leak of the Pentagon Papers prompted the President to create a special investigations unit (later known as the Plumbers) inside the White House under the direction of Egil Krogh.<sup>61</sup> Krogh, in turn, was directly supervised by John Ehrlichman.<sup>62</sup> Krogh was soon joined by David Young and in July the unit, staffing up for a broader role, added G. Gordon Liddy and E. Howard Hunt, both known to the White House as persons with investigative experience.<sup>63</sup> Liddy was a former FBI agent<sup>64</sup>; Hunt, a former CIA agent.<sup>65</sup>

The Strategic Arms Limitation Treaty negotiations were compromised by the leak of sensitive documents at the time this unit was being formed (July 23, 1971). This problem was included within the Plumbers' mission.<sup>66</sup> Two subsequent leaks were likewise added to the purview of the unit's activities: The India/USSR leak (Ted Szulc article of August 13, 1971), and the India/PAK leak (Jack Anderson article of December 16, 1971).<sup>67</sup> According to Ehrlichman, it was felt that White House supervision of the leak-finding unit would "stimulate the various departments and agencies to do a better job controlling leaks and the theft or other exposure of National security secrets from within their departments."<sup>68</sup>

This special investigations unit planned and carried out the burglary of the office of Dr. Daniel Ellsberg's psychiatrist, Dr. Lewis J. Fielding.<sup>69</sup> While this burglary is also discussed elsewhere in this report,<sup>70</sup> it is relevant here as reflective of the White House attitude toward illegal intelligence-gathering. Moreover, the activities of the Plumbers are closely related to the Watergate break-in because

<sup>61</sup> 6 *Hearings* 2603.

<sup>62</sup> 6 *Hearings* 2529.

<sup>63</sup> 6 *Hearings* 2531.

<sup>64</sup> Hunt executive session, Sept. 14, 1973, p. 423.

<sup>65</sup> 9 *Hearings* 3662.

<sup>66</sup> 6 *Hearings* 2604.

<sup>67</sup> David Young memorandum to the Select Committee, December 11, 1973, at p. 2.

<sup>68</sup> 6 *Hearings* 2529.

<sup>69</sup> 6 *Hearings* 2578, 2644-45, 9 *Hearings* 3663.

<sup>70</sup> See Chapter II on Campaign Practices.

both operations were under the supervision of Hunt and Liddy<sup>71</sup> and both employed as burglars certain Cuban-Americans recruited by Hunt.<sup>72</sup> Two of the Hunt recruits participated in both burglaries.<sup>73</sup> Also, fear of revelation of the Ellsberg break-in contributed significantly to the massive coverup following the Watergate burglary.

The committee record demonstrates that Krogh and Young, as directors of the Plumbers, recommended to Ehrlichman a covert operation to obtain Ellsberg's psychiatric records which were in the custody of Ellsberg's psychiatrist, Dr. Fielding. Krogh pled guilty on November 30, 1973, to a federal charge based on his role in that affair.<sup>74</sup> On the question whether Krogh and Young were acting with the approval of Ehrlichman, the Select Committee received considerable evidence. On August 11, 1971, Young and Krogh sent a memorandum to Ehrlichman which included the following report and recommendation:

We have received the CIA preliminary psychology study (copy attached at Tab A) which I must say I am disappointed in and consider very superficial. We will meet tomorrow with the head psychiatrist, Mr. Bernard Malloy, to impress upon him the detail and depth that we expect. We will also make available to him some of the other information we have received from the FBI on Ellsberg. In this connection we would recommend that a covert operation be undertaken to examine all the medical files still held by Ellsberg's psychoanalyst covering the two-year period in which he was undergoing analysis.<sup>75</sup>

Beneath this recommendation were the words "Approve" and "Disapprove," each followed by a blank space. The handwritten letter "E" was placed in the blank space after the word "Approve" and beneath it, also in handwriting, was the message "if done under your assurance that it is not traceable."<sup>76</sup> Ehrlichman testified that the letter "E" and the handwriting beneath it are his.<sup>77</sup>

Ehrlichman testified that he did not approve or have knowledge of the break-in in advance and that his understanding of the term "covert operation" did not include a break-in.<sup>78</sup> And, in the edited Presidential transcripts for a March 27, 1973 meeting, (p. 330) Ehrlichman, in reference to this break-in, is quoted as saying, "Well, sir, I didn't know. I didn't know what this crowd was up to until afterwards." However, the committee notes that the August 11 memorandum called for a "covert operation" to obtain medical files *still held by Ellsberg's psychoanalyst*.

Other documentary evidence is also relevant. Thus, in a memorandum dated August 26, 1971, from Young to Ehrlichman concerning a plan to disparage Ellsberg by feeding selected information to a congressional investigation, a footnote makes the following point:

In connection with issue (9) [relating to changing Ellsberg's image] it is important to point out that with the recent

<sup>71</sup> 1 *Hearings* 158; 9 *Hearings* 3663.

<sup>72</sup> 1 *Hearings* 357; Barker executive session, May 11, 1973, pp. 160-65.

<sup>73</sup> 9 *Hearings* 3711-12.

<sup>74</sup> Watergate Special Prosecutor Force Annual Report, May 25, 1974.

<sup>75</sup> Exhibit 90, 6 *Hearings* 2644-45.

<sup>76</sup> Exhibit 90, 6 *Hearings* 2546, 2644-45.

<sup>77</sup> 6 *Hearings* 2546.

<sup>78</sup> 6 *Hearings* 2547, 2578-79.

article on Ellsberg's lawyer, Boudin, we have already started on a negative press image for Ellsberg. *If the present Hunt/Liddy Project #1 is successful, it will be absolutely essential to have an overall game plan developed for its use in conjunction with the Congressional investigation.* In this connection, I believe that the point of Buchanan's memorandum on attacking Ellsberg through the press should be borne in mind; namely, that the situation being attacked is too big to be undermined by planted leaks among the friendly press.

If there is to be any damaging of Ellsberg's image and those associated with him, it will therefore be necessary to fold in the press planting with the Congressional investigation. I mentioned these points to Colson earlier this week, and his reply was that we should just leave it to him and he would take care of getting the information out. I believe, however, that in order to orchestrate this whole operation we have to be aware of precisely what Colson wants to do.

*Recommendation:* That you sign the memorandum to Colson asking him to draw up a game plan (Tab A).<sup>79</sup> [Emphasis added.]

"Tab A" was a memorandum from Ehrlichman to Charles Colson dated August 27, 1971 (which was only several days prior to the Ellsberg break-in) on the subject, "Hunt/Liddy Special Project #1." The memorandum from Ehrlichman to Colson stated:

On the assumption that the proposed undertaking by Hunt and Liddy would be carried out and would be successful, I would appreciate receiving from you by next Wednesday a game plan as to how and when you believe the materials should be used.<sup>80</sup>

The only Hunt/Liddy special project under consideration when these memorandums were written was the "covert operation" to obtain Ellsberg's medical records, and thus the only materials that would be received if the project were successful would be those medical records.

It appears from these memorandums and Hunt's testimony before the committee<sup>81</sup> that a primary strategy of the Plumbers was to obtain information to fuel a campaign to damage Ellsberg's image. This political motivation is highlighted in Young's August 26 memorandum to Ehrlichman by a bracketed note connecting Democratic Party leadership with the Ellsberg matter, which states:

I am sending you a separate Hunt to Colson memorandum which attempts to select the politically damaging material involving the Democratic hierarchy. I personally believe a good deal more material could be developed along these lines. To begin with, we have Conein, Lansdale, Harkins, and Nolting who could possibly be called to testify.<sup>82</sup>

There is also a July 28, 1971, memorandum from Hunt to Colson in which Hunt states:

I am proposing a skeletal operations plan aimed at building a file on Ellsberg that will contain all available overt,

<sup>79</sup> Exhibit 91, 6 *Hearings* 2650.

<sup>80</sup> Exhibit 91, 6 *Hearings* 2651.

<sup>81</sup> 9 *Hearings* 3666.

<sup>82</sup> Exhibit 91, 6 *Hearings* 2649.

covert and derogatory information. This basic tool is essential in determining how to destroy his public image and credibility.<sup>83</sup>

In his testimony before the committee, Hunt denied that the primary reason for the break-in was to destroy Ellsberg's public image, but he did admit that certain material expected to be obtained from Dr. Fielding's files might have been useful in discrediting Ellsberg.<sup>84</sup> David Young has insisted to committee staff that the thrust of the entire psychiatric study of Ellsberg was to determine whether Ellsberg was the kind of person capable of manipulation or whether he was acting alone.<sup>85</sup> In this regard it should be noted that in the memorandum of August 26, referred to above, Young informed Ehrlichman:

It may well be that although Ellsberg is guilty of the crimes with which he is charged, he did not in fact turn the papers over to the New York Times. The Defense Department's analysis of the printed material may even show that Ellsberg did not have some of the papers which the New York Times printed.

Furthermore, the whole distribution network may be the work of still another and even larger network.<sup>86</sup>

Krogh, in his statement after sentencing, disavowed any continuing belief that the Fielding operation was justified by national security. Judge Gerhard Gesell, the trial judge for the Ellsberg break-in case, also has rejected national security as a defense in that matter. (Order of May 24, 1974.) The edited transcripts of Presidential conversations submitted to the House Judiciary Committee suggest that the "national security" defense for the Ellsberg break-in may well have been an afterthought contrived to provide protection for those involved.<sup>87</sup> The following exchange is at page 336:

E. [If Hunt talks] I would put the national security tent over the whole operation.

P. I sure would.

On June 3, 1974, Charles W. Colson pled guilty to a charge of obstructing justice by engaging in a scheme to prepare and obtain derogatory information about Daniel Ellsberg and to leak such information to certain newspapers for the purpose of publicly discrediting Ellsberg. Colson admitted he engaged in this conduct to prejudice Ellsberg in the criminal case against Ellsberg relating to the Pentagon Papers' incident being prosecuted by the Federal Government. Colson had agreed with Hunt's recommendation that Ellsberg's psychiatrist's records be obtained—a recommendation that led to the burglary of Dr. Fielding's office by the Plumbers.

[Note: On July 12, 1974, after this report was prepared, Messrs. John Ehrlichman, Gordon Liddy, Bernard Barker and Eugenio Martinez were convicted in Federal court of conspiring to violate

<sup>83</sup> Exhibit 150, 9 *Hearings* 3886.

<sup>84</sup> 9 *Hearings* 3674.

<sup>85</sup> David Young memorandum, *supra*, p. 6.

<sup>86</sup> Exhibit 91, 6 *Hearings* 2646.

<sup>87</sup> See Edited Presidential Conversations 158, 190-91, 220-22.

the civil rights of Dr. Fielding by illegally entering his office. Mr. Ehrlichman was also convicted on two counts of perjury to the grand jury investigating this matter.]

The evidence before the committee demonstrates that, in July-August 1971, the CIA provided technical assistance to Howard Hunt that, among other uses, was instrumental in the break-in of Dr. Fielding's office. This assistance was made available after then Deputy Director General Robert E. Cushman received a request for aid from the White House and met with Hunt on July 22, 1971. According to Cushman, CIA assistance to Hunt was terminated when Hunt's demands become so extravagant that Cushman refused to meet them.

Cushman testified before the committee that in July 1971 he received a call from Ehrlichman asking for assistance for Hunt.<sup>88</sup> Cushman has further testified that Ehrlichman "stated that Howard Hunt was a bona fide employee, a consultant on security matters, and that Hunt would come to see me and request assistance which Mr. Ehrlichman requested that I give."<sup>89</sup> Ehrlichman has denied any recollection of this call. He has also said that "any call to the CIA is the kind of call that I usually have little or no difficulty in remembering."<sup>90</sup>

CIA records, however, indicate that it was Ehrlichman who made the July 1971 telephone call. The minutes of a meeting of top CIA officials held several days after the telephone call show that Cushman reported that it was made by Ehrlichman.<sup>91</sup> A transcript of the Cushman-Hunt meeting on July 22, 1971, indicates that Ehrlichman placed this call.<sup>92</sup> Also, the CIA has provided the committee with a recently discovered transcript of the Ehrlichman to Cushman phone call prepared by Cushman's secretary. The transcript clearly shows that Ehrlichman made the call seeking assistance for Hunt and invoked the President's name in order to procure this aid. The transcript of this conversation reveals the following statement by Ehrlichman:

MR. EHRLICHMAN. I want to alert you that an old acquaintance, Howard Hunt has been asked by the President to do some special consultant work on security problems. He may be contacting you sometime in the future for some assistance. I wanted you to know that he was in fact doing some things for the President. He is a long-time acquaintance with the people here. He may want some help on computer runs and other things. You should consider he has pretty much carte blanche.

There is additional evidence regarding this telephone call that is instructive. On December 16, 1972, after the Department of Justice began its investigation of the Fielding matter, Cushman called Ehrlichman and stated that he was uncertain who called him in early

<sup>88</sup> 8 *Hearings* 3292, 3296.

<sup>89</sup> Senate Appropriations Subcommittee on Defense, Testimony of General Robert Cushman on May 11, 1973, p. 148.

<sup>90</sup> Senate Appropriations Subcommittee on Defense, opening statement of John Ehrlichman on May 31, 1973; reprinted in *New York Times*, June 1, 1973, p. 16. Colson supports Cushman's version of the story. Colson testified on June 19, 1973, before the Senate Appropriations Subcommittee on Defense that Ehrlichman knew Hunt would be seeking CIA assistance. (Senate Appropriations Subcommittee on Defense, Testimony of Charles Colson on June 19, 1973, pp. 451-52, 496-97, 506-7.)

<sup>91</sup> 8 *Hearings* 3292.

<sup>92</sup> Exhibit 124, 8 *Hearings* 3385.

July 1971 about Hunt.<sup>93</sup> Ehrlichman told this to Dean who requested that Ehrlichman ask Cushman to put this in writing.<sup>94</sup> But Cushman, on January 8, 1973, sent a memorandum on the Hunt matter to Ehrlichman stating that the early July telephone call was probably made by Ehrlichman, Colson or Dean.<sup>95</sup> Ehrlichman immediately called Cushman to complain about the inclusion of his name.<sup>96</sup> Cushman, therefore, sent Ehrlichman another memorandum regarding Hunt, dated January 10, 1973, which stated that he could not recall who in the White House had called him. This memorandum was later given to Assistant U.S. Attorney Silbert.<sup>97</sup> These two memorandums were written before Cushman refreshed his recollection by examining CIA documents prior to his testimony before the Select Committee.

In late August 1971, after Hunt's demands became excessive, Cushman called Ehrlichman to complain.<sup>98</sup> Ehrlichman said he then asked Cushman what Hunt's assignment was and Cushman said he did not know. According to Ehrlichman, he (Ehrlichman) then said that he would take responsibility for terminating the CIA's assistance to Hunt and if there were any "squawks or kickbacks from anyone in the White House to simply refer them to me."<sup>99</sup> Shortly after this telephone call, CIA assistance to Hunt was terminated.

#### 4. PROJECT SANDWEDGE

The Committee to Re-Elect the President was gearing up for its own political intelligence-gathering program around the same time as the Ellsberg break-in. In September 1971, John Dean asked Jeb Stuart Magruder to join him for lunch with Jack Caulfield.<sup>1</sup> Caulfield, a White House investigator who had conducted numerous political investigations, some with Anthony Ulasewicz,<sup>2</sup> wanted to sell Magruder his political intelligence plan, "Project Sandwedge," for use by CRP.<sup>3</sup> Magruder had been organizing the campaign effort since May 1971, having received this assignment from Mitchell and Haldeman.<sup>4</sup> In essence, the Sandwedge plan proposed a private corporation operating like a Republican "Intertel"<sup>5</sup> to serve the President's campaign.<sup>5a</sup> In addition to normal investigative activities, the Sandwedge plan also included the use of bagmen and other covert intelligence-gathering operations.<sup>6</sup>

Project Sandwedge had been proposed to the White House by Caulfield in the spring of 1971<sup>7</sup> but was not favorably received by Mitchell and Ehrlichman.<sup>8</sup> After the initial luncheon meeting be-

<sup>93</sup> Cushman's recollection was later refreshed by reference to the CIA minutes noted above. (8 *Hearings* 3296.)

<sup>94</sup> Senate Appropriations Subcommittee on Defense, Testimony of John Ehrlichman on May 30, 1973, pp. 333-34.

<sup>95</sup> 8 *Hearings* 3295-96; Exhibit 125, 8 *Hearings* 3390.

<sup>96</sup> 8 *Hearings* 3296.

<sup>97</sup> See Exhibit 126, 8 *Hearings* 3391.

<sup>98</sup> 8 *Hearings* 3294; Senate Appropriations Subcommittee on Defense, Testimony of General Cushman on May 11, 1973, pp. 150-51.

<sup>99</sup> Senate Appropriations Subcommittee on Defense, Testimony of John Ehrlichman on May 30, 1973, p. 239.

<sup>1</sup> 2 *Hearings* 786.

<sup>2</sup> 6 *Hearings* 2268.

<sup>3</sup> 2 *Hearings* 786.

<sup>4</sup> 2 *Hearings* 784.

<sup>5</sup> Intertel is a private international detective agency.

<sup>5a</sup> 3 *Hearings* 924.

<sup>6</sup> 3 *Hearings* 925.

<sup>7</sup> 3 *Hearings* 924.

<sup>8</sup> 3 *Hearings* 925.

tween Magruder and Caulfield, the plan was again put to Mitchell—this time for use by CRP—but he again rejected it.<sup>9</sup>

#### 5. THE HIRING OF G. GORDON LIDDY BY THE CAMPAIGN COMMITTEE

With Sandwedge rebuffed, Magruder and Gordon Strachan of Haldeman's staff asked Dean to find a lawyer to serve as CRP general counsel who could also direct an intelligence-gathering program.<sup>10</sup> Magruder stated that he and Dean had, on previous occasions, discussed the need for such a program with Attorney General Mitchell.<sup>11</sup> The man Dean recruited was G. Gordon Liddy,<sup>12</sup> who moved from the special investigations unit in the White House to CRP.<sup>13</sup> Magruder testified that, when Dean sent Liddy to the Committee To Re-Elect the President in 1971, he (Magruder) was unaware of Liddy's activities for the Plumbers, particularly his participation in the break-in of Dr. Fielding's office.<sup>14</sup>

Dean had first asked Krogh whether David Young would be available for the special CRP assignment. Krogh said no, but suggested Liddy<sup>15</sup> with the caveat that Ehrlichman must approve of the transfer; subsequently, Krogh informed Dean that Ehrlichman did approve. Dean then called Mitchell to tell him that Krogh, with Ehrlichman's sanction, had recommended Liddy and to arrange for Mitchell to meet Liddy.<sup>16</sup>

Ehrlichman, however, denied in a committee staff interview that he approved Liddy's assignment to the CRP and has stated that he first learned of Liddy's CRP employment after the Watergate break-in.<sup>17</sup> The record shows that Mitchell (still the Attorney General) interviewed Liddy on November 24, 1971,<sup>18</sup> and approved Liddy for his position with CRP.<sup>19</sup>

#### B. THE COMMITTEE FOR THE RE-ELECTION OF THE PRESIDENT AND ITS RELATION TO THE WHITE HOUSE

Before relating the evidence regarding the planning of CRP's political intelligence-gathering program that ultimately resulted in the Watergate break-in, it is important briefly to identify CRP's close relationship with, if not domination by, the White House. The evidence accumulated by the Select Committee demonstrates that CRP was a White House product, answerable to top White House leadership.

It appears that H. R. Haldeman, the President's chief of staff, was principally responsible for organizing CRP; John Mitchell has stated that Haldeman was the moving force.<sup>20</sup> In May 1971, Jeb Magruder, then a Haldeman staff assistant, was released from his White House position and assigned the task of building the reelection committee.<sup>21</sup>

<sup>9</sup> 4 *Hearings* 1605.

<sup>10</sup> 3 *Hearings* 927.

<sup>11</sup> 2 *Hearings* 786. Mitchell, however, testified that the first time he recalled discussing an intelligence capacity for CRP was on November 24, 1971, in a meeting with Dean and Liddy. (4 *Hearings* 1608.)

<sup>12</sup> 3 *Hearings* 927-28.

<sup>13</sup> 2 *Hearings* 810; 3 *Hearings* 927-28.

<sup>14</sup> 2 *Hearings* 786.

<sup>15</sup> 3 *Hearings* 927.

<sup>16</sup> 3 *Hearings* 927-28.

<sup>17</sup> Ehrlichman Interview, May 4, 1973, p. 8.

<sup>18</sup> 3 *Hearings* 928; 4 *Hearings* 1608.

<sup>19</sup> 5 *Hearings* 1924.

<sup>20</sup> 4 *Hearings* 1606-7.

<sup>21</sup> 2 *Hearings* 784.



With Magruder on this assignment were Harry S. Flemming, Hugh W. Sloan, Jr., Herbert Porter, Robert Odle and Dr. Robert Marik. All but Marik were former White House aides.<sup>22</sup>

Magruder cleared all recruitment of White House personnel for the committee with Haldeman.<sup>23</sup> Although Attorney General Mitchell also passed on the appointment of persons to important reelection committee positions,<sup>24</sup> Richard Kleindienst, in a meeting with the President on April 15, 1973, characterized Mitchell's role in the formulation of CRP as that of "a puppet."<sup>25</sup> The evidence, however, shows that Mitchell assumed a political managerial role as to the reelection effort as early as the spring of 1971, a year before he left his position as Attorney General.<sup>26</sup> It was understood, even at that early time, that Mitchell would take full charge of the campaign when it went into high gear.<sup>27</sup> Thus, Mitchell received memorandums for his information and approval from CRP as early as May, 1971.<sup>28</sup>

The campaign organization eventually evolved into two entities:

1. The Committee for the Re-Election of the President, which had the responsibility for political activity.
2. The Finance Committee for the Re-Election of the President, the organ responsible for campaign fundraising and disbursement.<sup>29</sup>

Approximately 35 White House aides left their positions to assume key or lower level positions at CRP or FCRP.<sup>30</sup> A comparison of the CRP organization chart<sup>31</sup> and the White House organization chart for the period 1971-72<sup>32</sup> shows that most important positions in the campaign organizations were held by former White House aides.

Magruder was the caretaker director of the campaign political arm from May 1971 until March 1972 when Mitchell took over the duties of campaign director.<sup>33</sup> To keep Haldeman informed daily of CRP operations, Gordon Strachan, a Haldeman staff assistant, was designated as the liaison between Haldeman and Magruder.<sup>34</sup> On a regular basis, Magruder provided Strachan with reports of CRP activities and decision memorandums requiring Haldeman's approval.<sup>35</sup>

Robert Odle, CRP administrative assistant under Magruder, testified that CRP memorandums went to the White House in such significant numbers that there was a sample memorandum in the Staff Manual showing the prescribed form for a memorandum from a CRP staffer to Haldeman or other White House personnel.<sup>36</sup> Magruder also sent a flow of memorandums to Mitchell for his reaction or approval.<sup>37</sup> Examples of memorandums to Mitchell while he was still At-

<sup>22</sup> 1 *Hearings* 10.

<sup>23</sup> 3 *Hearings* 3023.

<sup>24</sup> 1 *Hearings* 14; 4 *Hearings* 1606.

<sup>25</sup> Edited Presidential Conversations, p. 741.

<sup>26</sup> 2 *Hearings* 785; 4 *Hearings* 1606.

<sup>27</sup> 2 *Hearings* 785.

<sup>28</sup> 1 *Hearings* 18, 40-41.

<sup>29</sup> 1 *Hearings* 12. Several days prior to April 7, 1972, the effective date of the new campaign fund reporting law, this entity was renamed the Finance Committee To Re-Elect the President.

<sup>30</sup> 1 *Hearings* 10, 437-47.

<sup>31</sup> Exhibit 7, 1 *Hearings* 19.

<sup>32</sup> Exhibit 9, 1 *Hearings* 77.

<sup>33</sup> 1 *Hearings* 12-13; 2 *Hearings* 784.

<sup>34</sup> 8 *Hearings* 3024.

<sup>35</sup> 2 *Hearings* 785; 8 *Hearings* 3023.

<sup>36</sup> 1 *Hearings* 58; Exhibit 4, 1 *Hearings* 454. Moreover, Haldeman testified that there were "twice weekly meetings in Mr. Ehrlichman's office with the campaign committee people and senior White House people." (8 *Hearings* 3023)

<sup>37</sup> 1 *Hearings* 18, 40-41; 4 *Hearings* 1607.

torney General are exhibits Nos. 74 and 75.<sup>38</sup> As noted, Mitchell's campaign activity began as early as May 1971.<sup>39</sup> Prior to his appearance before the Select Committee, Mitchell testified in March 1972 before the Senate Judiciary Committee that he had "[n]o reelection campaign responsibilities" before his resignation as Attorney General.<sup>40</sup>

The two divisions of the campaign organization were ultimately headed by two Cabinet Members—Mitchell became director of CRP<sup>41</sup> and Secretary of Commerce Maurice Stans retired to head FCRP.<sup>42</sup> Mr. Stans testified before the committee that, as FCRP director, he raised approximately \$60 million for the campaign. These funds were disbursed on the basis of decisions made by a budget committee consisting of key officials of CRP and FCRP.<sup>43</sup> These decisions were at times reviewed by Haldeman.

After the November election, FCRP had a substantial surplus, much of which was apparently used to defend itself in lawsuits and to pay legal fees of former CRP and FCRP officials involved in various Watergate-related legal matters.<sup>44</sup> As the Select Committee files its final report, approximately \$3.5 million in FCRP surplus is still held by the Campaign Liquidation Trust.

On the basis of this evidence, the committee finds that the Committee for the Re-Election of the President and the Finance Committee to Re-Elect the President were, in the main, White House-staffed and White House-controlled political organizations. It finds that they were initially conceived and created with the purpose of assuring White House control over the campaign funds raised by FCRP and the campaign strategies planned and implemented by CRP.

### C. THE PLANNING OF "GEMSTONE"

From the time G. Gordon Liddy was appointed CRP general counsel in December 1971,<sup>45</sup> his principal efforts were devoted to developing, advocating and implementing a comprehensive political intelligence-gathering program for CRP under the code name "Gemstone."<sup>46</sup> The Select Committee's knowledge of Liddy's activities comes from sources other than Liddy, himself, since he refused to testify, although instructed to do so by the committee upon the conference, pursuant to court order, of "use" immunity.<sup>47</sup> Liddy's role in the Gemstone plan was detailed to the committee through the testimonies of James McCord, Jeb Stuart Magruder, John Dean, John Mitchell and E. Howard Hunt. Although it is not clear from the testimony who originated the Gemstone concept, there is no dispute that it was Liddy who, with the aid of Hunt and McCord, formulated the plan and presented it for approval to Dean, Magruder, and Mitchell.

<sup>38</sup> 4 *Hearings* 1810-11.

<sup>39</sup> 2 *Hearings* 785; 4 *Hearings* 1606, 1653-58.

<sup>40</sup> Hearings before the Committee on the Judiciary of the U.S. Senate on the Nomination of Richard G. Kleindienst to be Attorney General, 92d Cong., 2d Sess., Part 2, p. 633.

<sup>41</sup> 1 *Hearings* 12.

<sup>42</sup> 1 *Hearings* 13.

<sup>43</sup> 1 *Hearings* 12.

<sup>44</sup> *Washington Post*, March 30, 1974, p. A6.

<sup>45</sup> 2 *Hearings* 786.

<sup>46</sup> 1 *Hearings* 126-27; 2 *Hearings* 786-87; 9 *Hearings* 3751.

<sup>47</sup> Liddy executive session. June 4, 1973.

## 1. THE MEETING OF JANUARY 27, 1972

The first Gemstone plan was presented to Attorney General Mitchell by Liddy at a meeting in Mitchell's Justice Department office on January 27, 1972. Magruder and Dean were also in attendance. The plan was a Liddy, Hunt, and McCord composite. McCord's input was the budget for the equipment needed to implement the electronic surveillance aspects of the plan.<sup>48</sup> Hunt, still employed at the White House, aided Liddy in formulating the plans for other intelligence-gathering operations.<sup>49</sup>

The testimony of Mitchell, Dean, and Magruder as to this meeting is fairly consistent concerning the nature of Liddy's presentation and the general contents of the plan. Liddy illustrated his presentation with six large white posters on an easel, each one portraying a specific coded component of the overall plan. The plan called for:

1. The use of mugging squads and kidnapping teams to deal with leaders of anti-Nixon demonstrations;
2. Prostitutes stationed on a yacht, wired for sound, anchored offshore from Miami Beach during the Democratic convention;
3. Electronic surveillance and break-ins at various targets not yet identified at the time of the meeting. The budget for the plan was \$1 million.<sup>50</sup>

Liddy's plan was not approved at the meeting. Dean testified that he was surprised at Liddy's plan and had not known of its contents prior to the meeting.<sup>51</sup> He testified that Mitchell was likewise amazed and told Liddy to revise the plan, focusing on the problem of demonstrations.<sup>52</sup> Magruder testified that he and Dean also indicated to Liddy that the project must be redone.<sup>53</sup> According to Dean, Mitchell told him privately that Liddy's proposal was out of the question.<sup>54</sup>

Mitchell testified that, at the January 27 meeting, he told Liddy to "take the stuff out and burn it."<sup>55</sup> However, Hunt testified that Liddy reported that the plan had been turned down because it was too expensive and that he (Liddy) had been instructed to redraft it.<sup>56</sup> McCord confirms this testimony.<sup>57</sup>

Despite these reactions of record by those who listened to Liddy's plan on January 27, the fact remains that such a plan was presented in the office of the Attorney General of the United States and that Liddy, after the meeting, still held his position as CRP general counsel and continued to have the responsibility of developing an intelligence-gathering plan.

Magruder testified that he reported the details of this meeting to Strachan in accordance with his custom of keeping Strachan advised on important matters so he (Strachan) could report to Haldeman.<sup>58</sup> Strachan, however, claimed that Magruder mentioned nothing to him regarding a CRP intelligence plan until after March 30, 1972.<sup>59</sup>

<sup>48</sup> 1 *Hearings* 127-28.

<sup>49</sup> 9 *Hearings* 3663.

<sup>50</sup> 2 *Hearings* 787-88; 3 *Hearings* 929; 4 *Hearings* 1610.

<sup>51</sup> 4 *Hearings* 1442.

<sup>52</sup> 3 *Hearings* 930.

<sup>53</sup> 2 *Hearings* 789.

<sup>54</sup> 3 *Hearings* 930.

<sup>55</sup> 5 *Hearings* 1816.

<sup>56</sup> 9 *Hearings* 3734, 3767.

<sup>57</sup> 1 *Hearings* 145.

<sup>58</sup> 2 *Hearings* 789.

<sup>59</sup> 6 *Hearings* 2440-41.

## 2. THE FEBRUARY 4, 1972 MEETING

On February 4, 1972, the same group again met in the Attorney General's office and listened to Liddy present a watered-down version of his intelligence plan. This time the plan called only for surreptitious photography and electronic surveillance.<sup>60</sup>

The budget for the new plan had been "stripped down" to \$500,000.<sup>61</sup> According to Magruder, Mitchell actually discussed possible targets for the new plan including the Democratic National Committee headquarters in Washington and at the convention, and the headquarters of the Democratic nominee. Also, according to Magruder, Mitchell suggested as additional targets DNC chairman Larry O'Brien and Las Vegas publisher Hank Greenspun, who allegedly had explosive material damaging to Senator Muskie in his office safe.<sup>62</sup>

Liddy's proposal, Magruder testified, was not approved at the February 4 meeting, but postponed for consideration at a later time.<sup>63</sup> Dean testified that, after arriving late for this meeting, he advised Liddy that such discussions should not go on in front of the Attorney General of the United States.<sup>64</sup> After the meeting, Dean testified, he told Liddy that he would never again discuss the matter with him and that, if Liddy's plan were approved, he did not want to know.<sup>65</sup> Mitchell testified that he and Dean were still aghast at Liddy's proposal.<sup>66</sup>

Liddy apparently left the meeting believing that the basics of his plan were unobjectionable but that his budget was still too high.<sup>67</sup> Moreover, McCord testified that Liddy said Dean had stated to Liddy that a method would have to be devised to ensure Mitchell's deniability regarding the operation, including the means by which the money would be disbursed.<sup>68</sup> Magruder also testified that a discussion concerning the Attorney General's deniability took place at the February 4 meeting.<sup>69</sup> Dean testified that Liddy may have misunderstood his statements concerning the impropriety of discussing the plan in front of the Attorney General and believed that Dean's only concern was with Mitchell's deniability, not with the appropriateness of the plan.<sup>70</sup>

Magruder testified that once again after the meeting he reported the event to Strachan so Haldeman could be informed.<sup>71</sup> This time, Magruder testified, he sent Strachan the documents Liddy had presented at the meeting, including budget sheets<sup>72</sup> and told Strachan by telephone the general content of the meeting, including the specific proposed targets for the intelligence operation.<sup>73</sup> Strachan, according to Magruder, told him that any decision made by Mitchell regarding the bugging proposal was acceptable to the White House.<sup>74</sup> But

<sup>60</sup> 2 *Hearings* 789.

<sup>61</sup> 2 *Hearings* 825.

<sup>62</sup> 2 *Hearings* 790-91.

<sup>63</sup> 2 *Hearings* 791.

<sup>64</sup> In his March 21, 1973, meeting with the President, Dean gave the President this same account. (Edited Presidential Conversations, pp. 175-176.)

<sup>65</sup> 3 *Hearings* 930.

<sup>66</sup> 4 *Hearings* 1612.

<sup>67</sup> 9 *Hearings* 3767-68.

<sup>68</sup> *Democratic National Committee, et al. v. James McCord, et al.* (D.D.C. Civ. No. 1233-72), deposition of James McCord, pp. 70-71, April 30, 1973. (Depositions in this case are hereinafter cited as e.g., McCord DNC deposition.) McCord executive session, March 28, 1973, pp. 12-15.

<sup>69</sup> Magruder executive session, June 12, 1973, pp. 79-80.

<sup>70</sup> 3 *Hearings* 1023.

<sup>71</sup> 2 *Hearings* 824-25.

<sup>72</sup> 2 *Hearings* 825.

<sup>73</sup> 2 *Hearings* 825.

<sup>74</sup> 2 *Hearings* 839.

Strachan, during his testimony, denied receiving this information from Magruder after the February 4 meeting, and claimed he had no knowledge of the Liddy plan until after March 30, 1972.<sup>75</sup>

Dean testified that, following this meeting, he met with Haldeman and told him about the meeting and the Liddy plan. He testified that he expressed his own view that the plan was incredible, unnecessary and unwise and that the White House should have nothing to do with it. Haldeman, according to Dean, agreed and instructed him to have no further dealings on the matter.<sup>76</sup>

Thus, according to both Magruder's and Dean's testimony, Haldeman knew about the Liddy intelligence plan after the February 4 meeting. Haldeman testified that he has no recollection of Dean's telling him about the February 4 meeting, but was willing to accept Dean's version of this conversation.<sup>77</sup> But, on March 27, 1973, Haldeman admitted to the President that he had a meeting with Dean during which Dean warned him about Liddy's plan and recommended that it be dropped.<sup>78</sup> Moreover, Dean informed the President of his conversation with Haldeman, telling the President, "Bob and I have gone over that after the fact and he recalls my coming to the office and telling him about this crazy scheme that was being cooked up."<sup>79</sup>

While Dean may have felt the plan had been disapproved, Magruder did not leave the February 4 meeting with that view since, as subsequent developments show, he continued to work with Liddy on modifying the plan and on March 30, 1972, presented it himself a third time to Mitchell in Key Biscayne, Fla. It is also noteworthy that, after the February 4 meeting, Liddy continued to serve as general counsel for CRP.

### 3. THE COLSON PHONE CALL

There is evidence that Liddy believed he needed additional White House assistance to get his intelligence plan approved. After the February 4 meeting, and before his meeting with Mitchell in Key Biscayne on March 30, Magruder, according to his testimony, received a call from Charles Colson, special counsel to the President, who told him to "get on the stick and get the Liddy project approved so we can get the information from O'Brien."<sup>80</sup> Hunt testified that, after the February 4 meeting, Liddy requested an introduction to Colson and that he brought Liddy to Colson's office. Hunt said he sat in the rear of the office while Liddy and Colson conversed and was not involved in their discussion. Colson made some phone calls during the conversation.<sup>81</sup>

Colson did not testify under oath before the committee but asserted his fifth amendment privilege after he was informed he was a target of the grand jury. However, Colson had earlier submitted to a staff interview. At that time Colson admitted that Liddy and Hunt told him they could not get anyone to listen to them and that he, therefore, called Magruder to ask him to hear their plan.<sup>82</sup> Colson summarized this meeting with Liddy and Hunt in a June 20, 1972, memorandum. Col-

<sup>75</sup> 6 *Hearings* 2451-52. (But see Edited Presidential Conversations, p. 146)

<sup>76</sup> 3 *Hearings* 930.

<sup>77</sup> 8 *Hearings* 3035.

<sup>78</sup> Edited Presidential Conversations, pp. 323-24.

<sup>79</sup> *Id.* at p. 962.

<sup>80</sup> 2 *Hearings* 835.

<sup>81</sup> 9 *Hearings* 3683-84.

<sup>82</sup> Colson Interview, May 3, 1973, pp. 2-3.

son said Hunt and Liddy told him about elaborate proposals for security activities which they could not get approved. Colson said he called Magruder and urged resolution of the Hunt-Liddy proposal. He stated in the memorandum that he declined Hunt's offer to apprise him of the details because it was "not necessary [and] it was of no concern to me." Hunt, however, testified that he did not offer to provide details to Colson.<sup>83</sup>

In his public testimony, Hunt testified that when they left Colson's office, after Colson had made the phone calls, Liddy told Hunt, "I think I may have done us some good."<sup>84</sup> Hunt also testified it was not necessary in the March meeting to give Colson details about the Liddy plan. He stated that in January 1972, he had informed Colson he would be working on a special project with Liddy that would require him to use the same Cuban-Americans he had employed in the Ellsberg break-in and that Colson indicated he was aware of the comprehensive covert intelligence plan which Liddy had in preparation and which had the approval of the White House.<sup>85</sup> Hunt testified, however, that Colson was not specifically aware that the DNC headquarters would be a target of the Gemstone plan.<sup>86</sup>

Another witness to the Colson call to Magruder apparently was Fred LaRue. Magruder testified that LaRue was in the room with him when he received the call<sup>87</sup> and Mitchell testified that LaRue told him that he was present when Colson called.<sup>88</sup> LaRue, however, could not recall being present.<sup>89</sup>

Magruder's description of Colson's call, especially the reference to a need to "get the information from O'Brien,"<sup>90</sup> provides some evidence that Colson was doing more than simply being helpful to Liddy and Hunt. Dean told the President in the Oval Office on March 21, 1973, that he thought Colson's call to Magruder "helped get the thing off the dime." At the same time Dean also told the President that Strachan, on Haldeman's behalf, was pushing Magruder for intelligence information and that Magruder "took that as a signal to probably go to Mitchell and to say, 'They are pushing us like crazy for this from the White House.'"<sup>91</sup>

#### 4. THE MARCH 30, 1972 MEETING

The third and final time Liddy's intelligence plan was presented to Mitchell was on March 30 in Key Biscayne, Fla. Magruder testified that he had a large number of accumulated matters, including the Liddy plan, to submit to Mitchell for his approval. By this time, the plan's budget had been reduced to \$250,000.<sup>92</sup> Prior to traveling to Florida, Magruder testified, he sent a copy of a memorandum on the pared down Liddy plan to Strachan for communication to Haldeman. Magruder said this was in accordance with his practice to send key

<sup>83</sup> Hunt executive session, July 25, 1973, pp. 99-110.

<sup>84</sup> 9 *Hearings* 3684.

<sup>85</sup> 9 *Hearings* 3674-80.

<sup>86</sup> 9 *Hearings* 3722. In earlier executive sessions, Hunt had not provided this information. He gave it for the first time in the executive session of September 20, 1973 (see pp. 467-73). He repeated this testimony at his appearance before the committee in public session. (See 9 *Hearings* 3681-83.)

<sup>87</sup> 2 *Hearings* 794.

<sup>88</sup> 5 *Hearings* 1929.

<sup>89</sup> 6 *Hearings* 2284.

<sup>90</sup> 2 *Hearings* 793.

<sup>91</sup> Edited Presidential Conversations, pp. 178-79.

<sup>92</sup> 2 *Hearings* 794.

papers for discussion with Mitchell to Haldeman so that Haldeman could comment prior to his (Magruder's) meetings with Mitchell.<sup>93</sup> Strachan, however, denied receiving an advance copy of this memorandum.<sup>94</sup>

Magruder testified that the Liddy memorandum was the last item discussed in his meeting with Mitchell in Key Biscayne, and that, although no one was enthusiastic after discussing its pros and cons, Mitchell approved the project.<sup>95</sup> Magruder testified that the approved \$250,000 project called for an initial entry into the Democratic National Committee headquarters in Washington and, at further dates if funds were available, entries into the headquarters of the Democratic Presidential contenders in Washington and at the convention in Miami.<sup>96</sup>

Mitchell, however, denied approving the Liddy plan. He said he told Magruder "we don't need this, I'm tired of hearing it, let's not discuss it any further."<sup>97</sup> LaRue, who was present with Mitchell and Magruder during the discussion of the various proposals Magruder presented to Mitchell, testified that, when Mitchell asked him (LaRue) what he thought of Liddy's plan, he replied it was not worth the risk and Mitchell said, "Well this is not something we will have to decide on at this meeting."<sup>98</sup>

In a March 27, 1973 meeting between the President, Haldeman and Ehrlichman, Haldeman reported on information CRP lawyer Paul O'Brien had received from Magruder:

[T]he final step [in approving the Watergate break-in plan] was when Gordon Strachan called Magruder and said Haldeman told him to get this going. "The President wants it done and there is to be no more arguing about it." This, meaning the intelligence activity, the Liddy program. Magruder told Mitchell this, that Strachan had told him to get it going on Haldeman's orders on the President's orders and Mitchell signed off on it. He said, "OK, if they say to do it, go ahead."<sup>1</sup>

(Magruder did not give information of this nature to the Select Committee in either public or executive session.) In addition, during an April 14, 1973, meeting between the President, Haldeman and Ehrlichman, Ehrlichman stated that Magruder told him that Mitchell orally approved Liddy's third proposal, but that the approval was reluctant and that they (Mitchell and Magruder) felt "bulldozed" into it by Colson.<sup>2</sup>

##### 5. FINANCING THE OPERATION

When Magruder returned to Washington the following day, April 1, he took certain actions that indicated his belief that the plan was approved. He told Robert Reisner, his administrative assistant, that Liddy's project had been approved and asked him to notify Liddy.

<sup>93</sup> 2 *Hearings* 794.

<sup>94</sup> 6 *Hearings* 2452.

<sup>95</sup> 2 *Hearings* 794.

<sup>96</sup> 2 *Hearings* 795.

<sup>97</sup> 4 *Hearings* 1613-14.

<sup>98</sup> 6 *Hearings* 2281.

<sup>1</sup> Edited Presidential Conversations, p. 321.

<sup>2</sup> Edited Presidential Conversations, p. 585.

He called Strachan to tell him the project was approved and informed Hugh Sloan, FCRP treasurer, that Liddy was authorized to draw \$250,000 during the campaign and would probably initially need a sizable amount.<sup>3</sup>

Liddy quickly requested \$83,000 from Sloan.<sup>4</sup> Sloan testified that he first checked Liddy's request with Magruder, who told him that it was in order and to comply. Sloan became concerned because the \$250,000 budget was to come from cash funds kept in a safe in his office that represented cash received prior to April 7, 1972, the effective date of the new Campaign Fund Reporting Law. Since \$83,000 was "totally out of line of anything we had ever done before," Sloan took the matter up with Stans, the director of FCRP. Stans told Sloan he would check with Mitchell. After meeting with Mitchell, Stans confirmed that Magruder had authority to make this kind of decision and that Sloan should pay the funds to Liddy. Responding to Sloan's concern about the purpose of such a payment, Stans, according to Sloan, said "I do not want to know and you don't want to know."<sup>5</sup> Although Stans disputed the context in which Sloan placed the remark, he agreed that it was "the substance of what was said."<sup>6</sup> Mitchell, however, testified that he only told Stans that Magruder had authority to pay money to Liddy and that there was no mention of substantial funds.<sup>7</sup>

Stans' meeting with Mitchell to clear the cash payment occurred only a few days after the March 30 meeting in Key Biscayne among Mitchell, Magruder and LaRue.

#### 6. TRANSMITTAL OF INFORMATION TO STRACHAN

Magruder testified that he "completely apprised" Strachan of the Liddy \$250,000 plan, including the fact that its first target was the Watergate DNC headquarters.<sup>8</sup> In his March 13, 1973, meeting with the President, Dean told the President that Strachan had prior knowledge of the Watergate burglary. The President immediately concluded: "Well, then, he probably told Bob. He may not have."<sup>9</sup> Dean assured the President that Strachan would not testify against Haldeman. "He was judicious in what he relayed, but Strachan is as tough as nails. He can go in and stonewall, and say, 'I don't know anything about what you are talking about.' He has already done it twice you know, in interviews."<sup>10</sup>

Strachan testified that Magruder told him only that a "sophisticated political intelligence-gathering system had been approved with a budget of \$300,000."<sup>11</sup> Strachan stated that he prepared political action memorandum #18<sup>12</sup> for Haldeman that relayed this information. Strachan said that, when the memorandum was returned for filing, Haldeman had checked the item concerning this matter, indicating he had read it.<sup>13</sup> Haldeman, however, claimed he did not recall seeing such an item.<sup>14</sup>

<sup>3</sup> 2 Hearings 795.

<sup>4</sup> 2 Hearings 539.

<sup>5</sup> 2 Hearings 539.

<sup>6</sup> 2 Hearings 727.

<sup>7</sup> 5 Hearings 1616-17.

<sup>8</sup> 2 Hearings 826.

<sup>9</sup> Edited Presidential Conversations, p. 146.

<sup>10</sup> *Ibid.*

<sup>11</sup> 6 Hearings 2441.

<sup>12</sup> The transcript of Strachan's testimony on this point refers to memorandum #8, a typographical error that should read #18. (See e.g., 6 Hearings 2459)

<sup>13</sup> 6 Hearings 2453.

<sup>14</sup> 8 Hearings 3036.



Four days after the March 30 meeting in Key Biscayne, Haldeman and Mitchell met. Strachan testified he prepared a talking paper for Haldeman for the meeting that included a section respecting CRP's \$300,000 intelligence plan.<sup>15</sup> Haldeman testified he did not recall directing Strachan to prepare this talking paper, nor did he recall seeing such a document. Haldeman and Mitchell both testified that a CRP intelligence plan was not discussed at the April 4 meeting. Haldeman testified that his meeting with Mitchell on April 4, 1972, was in connection with a meeting with the President and Mitchell which "covered the ITT-Kleindienst hearings and a review of Mitchell's plans for assigning campaign responsibilities. They [his notes] indicate no discussion of intelligence."<sup>16</sup>

Also in April, according to Strachan, Haldeman called him into his office and told him to inform Liddy to transfer whatever intelligence capability Liddy had for Muskie to McGovern. Haldeman, Strachan said, had a "particular interest in discovering what the connection between McGovern and Senator Kennedy was."<sup>17</sup> Strachan said he made a note of the instruction, called Liddy to his office and literally read the statement to him.<sup>18</sup>

#### D. EVENTS LEADING TO THE BREAK-IN

##### 1. THE M'GOVERN HEADQUARTERS ATTEMPTS

In addition to the DNC offices at Watergate and propitious targets at the Miami convention, the Watergate conspirators hoped to bug Senator George McGovern's Washington campaign headquarters.<sup>19</sup> This target appears consistent with the instruction Liddy received from Haldeman through Strachan in April "to transfer whatever capability he had from Muskie to McGovern," although bugging was not specifically mentioned in that instruction. McCord said he was involved in several attempts to bug McGovern's headquarters.<sup>20</sup>

On May 15, McCord and Tom Gregory, a student Hunt had hired to infiltrate the McGovern campaign, walked through the McGovern headquarters in order to acquaint McCord with the office layout.<sup>21</sup> Later, on the evening of May 26, McCord and Baldwin drove to the McGovern headquarters and, through the use of walkie-talkies, rendezvoused with another car occupied by Hunt, Liddy and others. The group had planned to break into the McGovern headquarters that evening but, because of Gregory's absence and the continued presence of a man standing in front of the headquarters, the mission was canceled.<sup>22</sup>

The Watergate conspirators also unsuccessfully attempted to bug the McGovern headquarters on May 28. McCord had hoped that the offices of Frank Mankiewicz and Gary Hart would be vacant so that bugging devices could be installed.<sup>23</sup> But the mission this time was aborted because persons were working late inside the headquarters,

<sup>15</sup> 6 *Hearings* 2454.

<sup>16</sup> 7 *Hearings* 2881; see also Exhibit 121, 8 *Hearings* 3372.

<sup>17</sup> 6 *Hearings* 2455.

<sup>18</sup> *Ibid.*

<sup>19</sup> 1 *Hearings* 185.

<sup>20</sup> McCord DNC deposition, April 30, 1973, p. 157.

<sup>21</sup> 1 *Hearings* 164.

<sup>22</sup> Baldwin interview, March 30, 1973, p. 7.

<sup>23</sup> McCord DNC deposition, April 30, 1973, pp. 157-58.

and Gregory, who had been instructed by Hunt to position himself outside and report when they left, was asked by a policeman to leave the area.<sup>24</sup>

## 2. THE FIRST WATERGATE BREAK-IN

Liddy and Hunt then turned to the main target of the "Gemstone" plan—the Democratic National Committee headquarters in the Watergate Office Building. They planned the break-in for the Memorial Day weekend. Hunt alerted his Cuban-American contact in Miami, Bernard Barker, to be prepared to bring a trained burglary team to Washington. Barker, who had performed this same type of mission for Hunt in the Ellsberg matter, had also served under Hunt in the Bay of Pigs operation. He was a refugee from his native Cuba and considered himself a patriot committed to the mission of freeing Cuba from Castro.

The Cuban-Americans he recruited for Hunt's projects were cut from the same cloth. The motivations of Barker and his crew were clearly stated by Baker: "... E. Howard Hunt, under the name of Eduardo, represents to the Cuban people their liberation. I cannot deny my services in the way that it was proposed to me on a matter of national security, knowing that with my training, I had personnel available for this type of operation. I could not deny this request at the time."<sup>25</sup>

On May 10 or 12, McCord and Hunt reconnoitered the Watergate Office Building by walking through it in the early evening after work and, again, around 9 or 10 p.m.<sup>26</sup> On May 17, Martinez purchased six one-way tickets to Washington from Miami for Frank Carter (alias for Barker), J. Granada (alias for Reynaldo Pico), Joseph di Alberto (alias for Sturgis), Raoul Godey (alias for Gonzales), Jose Piedra (alias for De Diego), and G. Valdes (alias for Martinez).<sup>27</sup> On May 22, the Miamians registered at the Manger-Hamilton Hotel in Washington and, on May 26, moved to the Watergate Hotel, where they stayed until May 30.<sup>28</sup>

Barker testified that he met with Hunt at the Manger-Hamilton Hotel shortly after his arrival in Washington and Hunt explained to him the general nature of the mission. Barker, however, did not relay the nature of the assignment to his team until just before entry into the DNC headquarters.<sup>29</sup> At that time, the different tasks of the participants were discussed.<sup>30</sup>

By the early morning hours of May 28, the Watergate conspirators, after two frustrated attempts, completed their first break-in of the DNC.<sup>31</sup> The entry was made late on May 27 when Gonzales picked the lock of the ground floor door of the Watergate Office Building.<sup>32</sup> The burglary team then went to the sixth floor offices of the DNC headquarters. McCord placed electronic bugging devices (miniature transmitters) in the telephones of DNC chairman Larry O'Brien and an-

<sup>24</sup> Watergate trial transcript, pp. 37–39, 488–90.

<sup>25</sup> 1 *Hearings* 365.

<sup>26</sup> Hunt executive session, December 17, 1973, pp. 17–19.

<sup>27</sup> Hearings before the Committee on the Judiciary of the U.S. Senate on the nomination of L. Patrick Gray III to be Director, Federal Bureau of Investigation, Feb. 28, 1973, p. 51. (Hereinafter cited as Gray confirmation hearings.)

<sup>28</sup> *Ibid.*

<sup>29</sup> 1 *Hearings* 377.

<sup>30</sup> McCord DNC deposition, April 30, 1973, pp. 106–8.

<sup>31</sup> 1 *Hearings* 156.

<sup>32</sup> Sturgis executive session, May 15, 1973, p. 430.

other official, Spencer Oliver,<sup>33</sup> and Barker and his team photographed papers from DNC files.<sup>34</sup>

### 3. THE FRUITS OF THE FIRST BREAK-IN

After the DNC telephones were tapped, Alfred Baldwin, a former FBI agent recruited by McCord, monitored intercepted telephone conversations from a room in the Howard Johnson Motor Lodge across the street from the Watergate Office Building.<sup>35</sup> He typed the conversations almost verbatim and gave the logs to McCord.<sup>36</sup> McCord gave the logs to Liddy who had several retyped by his secretary, Sally Harmony. Liddy told McCord he wanted them in final form before his discussions with Mitchell and other recipients of the logs.<sup>37</sup>

The Gemstone project had its own stationery with the word, "Gemstone," printed in large letters at the top.<sup>38</sup> Sally Harmony testified she used Gemstone stationery when she retyped the telephone logs.<sup>39</sup> Harmony also said she saw a stack of 8" by 10" photographs of documents from the DNC headquarters held by fingers in rubber gloves.<sup>40</sup>

Ms. Harmony testified that she began to type certain general intelligence memorandums for Liddy in April that led her to believe that CRP had infiltrated the headquarters of McGovern and Muskie.<sup>41</sup> In keeping with the spy motif that characterized Liddy's operations, code names referring to information sources were used in the intelligence memorandums. The three code names she could recall were Ruby 1, Ruby 2, and Crystal.<sup>42</sup>

Magruder testified that, after Liddy's project was approved, he did not hear from Liddy until after May 27 when Liddy reported the DNC break-in and installation of the telephone tapping devices.<sup>43</sup> Magruder said he reported the May 27 entry to Strachan, but, at that time, gave Strachan no further details.<sup>44</sup>

After the May 27 DNC break-in, Magruder received from Liddy two installments of documents embodying the fruits of the break-in. The installments included summaries of phone conversations on Gemstone stationery and photographs of documents.<sup>45</sup> Magruder testified he showed these Gemstone materials to Mitchell in a regular 8:30 morning meeting with him in his office in either CRP headquarters or his law firm, which was located in the same building.<sup>46</sup>

According to Magruder's testimony, Mitchell found the documents of no use and called Liddy to his office and told him the materials he received "were not satisfactory and it was not worth the money that he had been paid for it."<sup>47</sup> Magruder said Liddy explained there was a technical problem with one wiretap and that one had been improperly placed. Liddy said he would correct these matters and hopefully obtain useful information.<sup>48</sup>

<sup>33</sup> 1 *Hearings* 156-57.

<sup>34</sup> Barker executive session, May 11, 1973, pp. 165-67; 1 *Hearings* 358.

<sup>35</sup> 1 *Hearings* 401.

<sup>36</sup> 1 *Hearings* 409-10.

<sup>37</sup> 1 *Hearings* 233.

<sup>38</sup> Exhibit 16, 2 *Hearings* 464, 877.

<sup>39</sup> 2 *Hearings* 467.

<sup>40</sup> 2 *Hearings* 462.

<sup>41</sup> 2 *Hearings* 482-83.

<sup>42</sup> 2 *Hearings* 462. These "sources" are discussed in more detail in Chapter 2 of this report.

<sup>43</sup> 2 *Hearings* 796-99.

<sup>44</sup> 2 *Hearings* 826.

<sup>45</sup> 2 *Hearings* 796-97.

<sup>46</sup> 2 *Hearings* 797.

<sup>47</sup> *Ibid.*

<sup>48</sup> *Ibid.*

Mitchell denied receiving any Gemstone material or informing Liddy that he was unhappy with the intelligence information. In fact, Mitchell testified that he did not see nor talk with Liddy between February 4, 1972, and June 15, 1972.<sup>49</sup>

However, Magruder's administrative assistant, Robert Reisner, testified that several weeks prior to June 17, 1972, Magruder handed him materials on stationery bearing the letterhead "Gemstone" for the purpose of preparing a file for Mr. Mitchell for a meeting between Mitchell and Magruder.<sup>50</sup> Reisner also testified that, on another occasion, he saw the Gemstone stationery and envelopes and "photographs or what appeared to be photographs with the stationery."<sup>51</sup> Mr. Reisner identified committee exhibits 16 and 18, which are copies of Gemstone stationery and the envelope for Gemstone materials, as being the same type stationery and envelopes he saw in Magruder's office and used to prepare Mr. Mitchell's file.<sup>52</sup> The Gemstone envelopes bore the words "Sensitive Material" in large red capital letters and the words "handle as code word material" in smaller letters. In the lower left-hand corner of the envelope were printed the abbreviated words, "Ex Dis," followed by "No Dism." These abbreviations apparently stood for "Executive Distribution" and "No Dissemination." Also at the bottom of the Gemstone stationery were the printed words, "Warning, this information is for intelligence purposes only. Exploitation may compromise source and terminate flow of information."<sup>53</sup>

Magruder also testified that he showed Strachan the Gemstone documents he received from Liddy. He said that, because of their sensitive nature, he had Strachan view them in Magruder's office. He and Strachan, Magruder said, agreed there was no substance to the documents.<sup>54</sup>

Strachan denied that Magruder showed him wiretap reports or Gemstone documents and said he never heard the term "Gemstone" prior to June 17, 1972.<sup>55</sup> Haldeman stated in a staff interview that Strachan never reported to him that he had seen a Gemstone file.<sup>56</sup>

#### 4. FACTORS LEADING TO THE SECOND BREAK-IN

The second Watergate break-in was apparently made to correct the difficulty experienced with the wiretap device on Mr. O'Brien's telephone. Dean testified that on June 19, 1972, 2 days after the June 17 break-in, he met with Liddy who told him that the men arrested in the DNC were his men.<sup>57</sup> When Dean asked Liddy why he had been in the DNC, he told Dean that "Magruder had pushed him into doing it. He told me that he had not wanted to do it, but Magruder had complained about the fact that they were not getting good information from a bug that they had placed in the DNC earlier. He then explained something about the steel structure of the Watergate Office Building that was inhibiting transmission of the bug and that they had gone into the building to correct this problem."<sup>58</sup> Dean later gave this same

<sup>49</sup> 4 *Hearings* 1620.

<sup>50</sup> 2 *Hearings* 494.

<sup>51</sup> 2 *Hearings* 495.

<sup>52</sup> 2 *Hearings* 493-97.

<sup>53</sup> Exhibit 2, 1 *Hearings* 450.

<sup>54</sup> 2 *Hearings* 797-98.

<sup>55</sup> 6 *Hearings* 2451.

<sup>56</sup> Haldeman interview, June 14, 1973, p. 3.

<sup>57</sup> 3 *Hearings* 933.

<sup>58</sup> *Ibid.*

account to President Nixon on March 21, 1973.<sup>59</sup> But Ehrlichman, during a meeting with the President and Haldeman on April 14, 1973, said Magruder told him that the second DNC break-in was "Liddy's own notion" and that "neither Mitchell nor Magruder knew that another break-in was contemplated." Ehrlichman said Magruder told him that Liddy had met with Mitchell and, referencing the difficulties experienced, had only said "Mr. Mitchell, I'll take care of it."<sup>60</sup> McCord testified that Liddy had told him a second break-in was necessary because Mitchell wanted a second photographic operation and that, in addition, "as long as that team was going in that Mr. Mitchell wanted . . . Mr. Liddy to check . . . the malfunctioning of the second device that was put in . . . and see what the problem was because it was one of two things—either a malfunction of the equipment or the fact that the installation of the device was in a room which was surrounded by four walls. In other words, it was shielded and he wanted this corrected and another device installed."<sup>61</sup>

In any event, it appears that the second DNC break-in in the early morning hours of June 17 was carried out with a sense of urgency by Liddy and without the planning engaged in for the first successful break-in. The urgency of the second break-in is emphasized by the fact that the burglars decided to proceed with the operation even though McCord found that the tape initially placed on the garage door leading to the stairwell had been removed, making it necessary to pick the lock again. The risk of discovery was obvious to all the break-in team, yet, after hurried consultation with Liddy in the Watergate Hotel, the decision was made to continue.

A second piece of tape was placed on the basement garage door, an action that was the burglars' undoing. For it was the Watergate guard, Frank Wills, who had found the first piece of tape and removed it, thinking that one of the engineers for the building had put it on the door. When he made his rounds again and saw the door retaped, he telephoned the police.<sup>62</sup>

Within minutes, Sergeant Leeper's plainclothes squad arrived at the Watergate Office Building, searched the stairwell and entered the sixth floor offices of the Democratic National Committee headquarters. When Officer Barrett discovered the burglars and yelled, "Hold it! Come out!," the break-in team was apprehended in the midst of setting up photographic equipment. The next afternoon, Leeper obtained search warrants for the rooms which the burglars had occupied.<sup>63</sup> There police found \$4,200 in \$100 bills, all with serial numbers in sequence, more electronic equipment, sets of blue surgical gloves, and a small notebook containing the name, E. Howard Hunt.<sup>64</sup>

The burglary was over, but the Watergate scandal had just begun.

## II. THE COVERUP

The news of the break-in at the DNC that reached the public in the newspapers on June 17 and 18 provided little hint of involvement of high campaign and administration officials. For many months

<sup>59</sup> Edited Presidential Conversations, pp. 180–81.

<sup>60</sup> *Id.* at 587.

<sup>61</sup> 1 *Hearings* 157.

<sup>62</sup> Wills DNC deposition, March 9, 1973, pp. 19–20, 24–25.

<sup>63</sup> 1 *Hearings* 107.

<sup>64</sup> 1 *Hearings* 107–8.

the facts set forth above regarding the planning and implementation of the Gemstone plan were hidden from public view. This is because on June 17, just hours after the burglars were arrested, a massive coverup was begun to conceal the true facts from the Nation. This coverup eventually encompassed destruction and secreation of documents, obstruction of official investigations, subornation of perjury and offers of money and Executive clemency to the Watergate defendants to secure silence.

That there was a coverup of some form can no longer be seriously disputed since four of its participants—John Dean, Jeb Magruder, Fred LaRue, and Bart Porter—have pleaded guilty to crimes related to it. Dean, Magruder and LaRue have admitted involvement in a conspiracy to obstruct justice, the basis of which was their participation in coverup activities, and Porter has confessed to making false statements to the FBI to hide the true Watergate facts.

#### A. WHITE HOUSE AND CRP ACTIVITY—FIRST THREE DAYS AFTER THE BREAK-IN

On the morning of June 17, Liddy called Magruder in Los Angeles and informed him that five men, including McCord, had been apprehended in the DNC headquarters. Magruder, who was on a campaign trip with Mitchell, Fred LaRue, Robert Mardian, and Bart Porter, repeated Liddy's report to LaRue, who relayed it to Mitchell.<sup>65</sup> Magruder testified that, later in the day, Mitchell told Mardian to have Liddy speak to Kleindienst concerning the possibility of releasing McCord.<sup>66</sup> Mardian denied this, but LaRue said that Mitchell asked someone—probably Mardian or Magruder—to tell Liddy to contact Kleindienst, who in turn was to contact Police Chief Jerry Wilson, for details.<sup>67</sup>

In any event, in the late morning hours of Saturday, June 17, Liddy, accompanied by CRP staffer Powell Moore, went to the Burning Tree Country Club near Washington to ask Kleindienst to arrange the release of the five Watergate burglars.<sup>68</sup> Kleindienst, who had received word of the break-in from Henry Petersen at 8 a.m., telephoned Petersen in Liddy's presence and ordered that the Watergate five receive no special treatment. Kleindienst testified he then told Liddy to leave the premises.<sup>69</sup>

That afternoon the scene of activity shifted to CRP headquarters. Liddy, rushing by Hugh Sloan, commented tersely: "My boys got caught last night; I made a mistake; I used someone from here which I told them I would never do; I'm afraid I'm going to lose my job."<sup>70</sup> Robert Odle later observed Liddy go to the shredding room with a pile of documents about "a foot high."<sup>71</sup>

In a telephone conversation later in the day, Magruder, still in California, directed Odle and Robert Reisner to take certain sensitive CRP files home over the weekend. In particular, Magruder asked them to remove the blue file containing Gemstone papers from the

<sup>65</sup> 2 *Hearings* 798; 6 *Hearings* 2284–85.

<sup>66</sup> 2 *Hearings* 798.

<sup>67</sup> 6 *Hearings* 2285, 2330, 2353.

<sup>68</sup> 6 *Hearings* 2353.

<sup>69</sup> 6 *Hearings* 2353; 9 *Hearings* 3561–62, 3613.

<sup>70</sup> 2 *Hearings* 542.

<sup>71</sup> 1 *Hearings* 44.

office. Reisner put the Gemstone blue folder file in Odle's briefcase for Odle to remove.<sup>72</sup>

Meanwhile the FBI investigation of the Watergate incident had begun. FBI agents first became aware of Hunt's involvement during the afternoon of June 17, when, in the course of searching the two hotel rooms previously occupied by the arrested men, they discovered address books with White House telephone numbers used by Hunt and Liddy. The FBI interviewed Hunt on the evening of June 17, but he revealed little. On that same evening, the FBI contacted Alexander Butterfield of the White House staff to determine Hunt's precise affiliation with the White House and to inform the White House that Hunt was possibly involved in the Watergate break-in.<sup>73</sup>

After the disclosure of McCord's association with CRP appeared in the newspapers on June 18, Mitchell issued a statement from Los Angeles: "McCord and the other four men arrested in Democratic headquarters Saturday were not operating either in our behalf or with our consent in the alleged bugging attempt." He commented further that there "is no place in our campaign or in the electoral process for this type of activity and we will not permit it or condone it."<sup>74</sup>

In a telephone conversation on June 18, Magruder informed Haldeman, then in Key Biscayne with the President, of the break-in and McCord's involvement.<sup>75</sup> Haldeman responded, Magruder said, by asking Magruder to "get back to Washington immediately . . . [and] talk with Mr. Dean and Mr. Strachan and Mr. Sloan and others on Monday to try to find out what actually had happened and whose money it was and so on."<sup>76</sup> Haldeman confirms the phone call, but he said the conversation concerned a review of a press release on the break-in.<sup>77</sup>

The next day, June 19, Ronald Ziegler, also in Key Biscayne, announced that the White House was not conducting an inquiry into the Watergate incident.<sup>78</sup> He declined to comment on what he termed a "third-rate burglary attempt."<sup>79</sup> On June 20, the press reported that Hunt's name had been found in the address books of Barker and Martinez.<sup>80</sup> After first identifying Hunt as a consultant to Colson, the White House later denied he worked for Colson.

The coverup began to take form in a number of meetings held on June 19. Probably the most significant was an evening meeting in Mitchell's apartment attended by Mitchell, Magruder, LaRue, Mar-dian, and Dean.<sup>81</sup> Earlier in the day, Odle had returned various files, including the Gemstone files, to Magruder.<sup>82</sup> Magruder, according to his testimony, asked the others present at the meeting what he should do with these sensitive files. LaRue testified that Mitchell replied that it might be a good idea if Magruder had a fire in his house. Magruder similarly testified that those at the meeting concluded that the Gemstone file should be destroyed immediately.<sup>83</sup> Mitchell testified that

<sup>72</sup> 1 *Hearings* 45-49; 2 *Hearings* 495-96, 799.

<sup>73</sup> Gray confirmation hearings, pp. 52, 114, 128.

<sup>74</sup> *Washington Post*, June 19, 1972, pp. A1, A6.

<sup>75</sup> 8 *Hearings* 3039.

<sup>76</sup> 2 *Hearings* 799, 815.

<sup>77</sup> 8 *Hearings* 3039.

<sup>78</sup> 3 *Hearings* 955.

<sup>79</sup> *Washington Post*, June 20, 1972, p. A1.

<sup>80</sup> *Washington Post*, June 20, 1972, p. A1.

<sup>81</sup> 2 *Hearings* 799-800; 3 *Hearings* 933-35; 4 *Hearings* 1622; 5 *Hearings* 1877; 6 *Hearings* 2286.

<sup>82</sup> 1 *Hearings* 67; 2 *Hearings* 507. On June 18, Reisner had shredded what he assumed were copies of some papers in the files which Odle had taken home. (2 *Hearings* 507.)

<sup>83</sup> 2 *Hearings* 800.

there was no reference to a Gemstone file at the meeting and that he did not suggest the destruction of any papers.<sup>84</sup> Dean did not remember whether the destruction of files was mentioned.<sup>85</sup> Mardian testified that there was no discussion of destruction of "Gemstone files or sensitive files" while he was at the meeting.<sup>86</sup>

Dean testified that he participated in a number of other Watergate-related meetings and conversations on June 19. On that morning, Ehrlichman told Dean to discover what he could about the Watergate incident and, specifically, to explore Colson's involvement. Dean immediately informed Ehrlichman of a conversation he had just had with Magruder, who had stated that "this was all Liddy's fault." Dean later talked with Colson who suggested that they should meet with Ehrlichman as soon as possible and expressed concern over the contents of Hunt's safe.

Shortly before noon, Dean and Liddy met. Liddy told Dean that the men arrested in the break-in were "his men" and that "Magruder had pushed him into doing it."<sup>87</sup> Dean testified that, shortly after his meeting with Liddy, Strachan came to Dean's office and reported that, at Haldeman's direction, he had removed and destroyed damaging materials from Haldeman's files over the weekend.<sup>88</sup> Strachan later confirmed this in testimony before the committee.<sup>89</sup> Haldeman testified he did not recall giving Strachan such instructions.<sup>90</sup>

Dean met with Ehrlichman twice during the afternoon of June 19. In the first meeting, Dean testified, he told Ehrlichman everything he had learned from Liddy, and Ehrlichman requested that Dean keep him advised of the results of his inquiries. Dean testified he also told Ehrlichman at this time about the earlier meetings he attended in Mitchell's office in late January and early February and his subsequent conversation with Haldeman where he expressed concern over the proposed Liddy plan.<sup>91</sup> Ehrlichman testified he had no recollection of receiving such a report from Dean at that time.<sup>92</sup> According to the Edited Presidential Conversations, Ehrlichman made a similar statement to the President.<sup>93</sup>

Colson was present at the second meeting, during which, Dean testified, Ehrlichman instructed him to call Liddy and advise Liddy to tell Hunt to leave the country. Dean said he did this "without even thinking," but later called Liddy back to retract the instruction after he and Colson convinced Ehrlichman that such a course would be unwise.<sup>94</sup> Ehrlichman, however, testified that he gave Dean no orders to instruct Liddy to tell Hunt to leave the country.<sup>95</sup> The edited Presidential transcripts (pp. 1022, 1179-80) indicate that Ehrlichman told the President that he gave no such instruction.

Colson raised, at this meeting, the matter of Hunt's safe and suggested—with Ehrlichman's concurrence—that Dean take custody of

<sup>84</sup> 4 *Hearings* 1622; 5 *Hearings* 1877; but see 6 *Hearings* 2285-86. Mitchell was indicted by the Watergate grand jury for perjury for this testimony. (Indictment of March 1, 1974, at pp. 23-24.)

<sup>85</sup> 3 *Hearings* 935.

<sup>86</sup> 6 *Hearings* 2256-57.

<sup>87</sup> 3 *Hearings* 933.

<sup>88</sup> 3 *Hearings* 933-34.

<sup>89</sup> 6 *Hearings* 2442, 2490.

<sup>90</sup> 3 *Hearings* 3038.

<sup>91</sup> 3 *Hearings* 934.

<sup>92</sup> 7 *Hearings* 2823.

<sup>93</sup> Edited Presidential Conversations, pp. 1022, 1179-80.

<sup>94</sup> 3 *Hearings* 934.

<sup>95</sup> 7 *Hearings* 2718-20, 2830.



its contents. Bruce Kehrli, the White House staff secretary, entered the meeting and was instructed by Ehrlichman to have the safe opened in Dean's presence.<sup>96</sup> The safe was opened that evening, after Dean had departed, by Kehrli with Fred Fielding, Dean's assistant, in attendance. Kehrli knew that the contents of the safe were to be delivered to Dean.<sup>97</sup> Colson's concern about Hunt's safe apparently derived from a comment Hunt had made to Colson's secretary, Joan Hall, earlier in the day. Before leaving the White House for the last time, Hunt stopped by Colson's office and said to Hall, "I just want you to know that that safe is loaded."<sup>98</sup>

On June 19 (or possibly June 20), Dean also met with Kleindienst and Henry Petersen in Kleindienst's office.<sup>99</sup> Kleindienst testified, and Petersen agreed, that the purpose of the meeting was "to inform [Dean] as counsel to the President that the Department of Justice and the FBI would be compelled and would immediately launch a full-scale intensive, thorough investigation . . ."<sup>1</sup> Dean also testified he told Kliendienst earlier in the meeting, before Petersen arrived, that he was "very concerned that this matter could lead directly to the President," and that if the investigation led into the White House he suspected that the chances of reelecting the President would be severely damaged."<sup>2</sup> Dean also testified he informed Petersen, after Kleindienst left, that he had no idea where "this thing" might end but he did not think the White House could stand a wide-open investigation. Dean said Petersen gave him "the impression . . . that he realized the problems of a wide-open investigation of the White House in an election year."<sup>3</sup> Petersen recalls only some discussion about a general probe of the White House in an election year. He gave assurances there would be no fishing expedition.<sup>4</sup>

## B. THE DISPOSITION OF THE CONTENTS OF HUNT'S SAFE

Dean testified that, in mid-morning on June 20, GSA representatives brought him several cartons containing the contents of Hunt's safe and, in the afternoon, he and Fielding examined these materials. In addition to electronic equipment in a briefcase, Dean discovered numerous memorandums to Colson regarding the Plumbers, a psychological study of Ellsberg, various materials relating to the Pentagon Papers, a number of classified State Department cables, and a forged cable implicating the Kennedy administration in the assassination of South Vietnamese President Diem. Dean called David Young, who agreed to store the classified cables in his office.<sup>5</sup>

Subsequently, Dean testified, he met with Ehrlichman and described for him the contents of the safe. According to Dean's testimony, Ehrlichman instructed Dean to shred the documents and to "deep six" the briefcase containing the electronic equipment. Dean said that when he asked Ehrlichman what he meant by "deep six," Ehrlichman explained, "Well, when you cross over the bridge on your way home,

<sup>96</sup> 3 *Hearings* 934-35; 7 *Hearings* 2822.

<sup>97</sup> 3 *Hearings* 935.

<sup>98</sup> 9 *Hearings* 3689.

<sup>99</sup> 3 *Hearings* 936; 9 *Hearings* 3563, 3613-14.

<sup>1</sup> 9 *Hearings* 3563, 3613-14.

<sup>2</sup> 3 *Hearings* 936.

<sup>3</sup> 3 *Hearings* 937.

<sup>4</sup> 9 *Hearings* 3614.

<sup>5</sup> 3 *Hearings* 937-38; 7 *Hearings* 2826; 9 *Hearings* 3613-14.

just toss the briefcase into the river.”<sup>6</sup> Fred Fielding has testified that Dean told him that Ehrlichman instructed Dean to “deep six” the briefcases.<sup>7</sup> Ehrlichman denied to the committee that he gave such instructions.<sup>8</sup> Ehrlichman also denied to the President that he (Ehrlichman) had given a “deep six” order.<sup>9</sup>

Dean testified he did not follow Ehrlichman’s order.<sup>10</sup> However, in January 1973, Dean, in fact, did destroy certain Hunt notebooks which had been in the safe.<sup>11</sup> He did not volunteer this information to the Special Prosecutor until after he had pleaded guilty to a conspiracy to obstruct justice charge. Furthermore, he did not volunteer this information when he testified publicly or privately before this committee.

Dean testified that, on June 25 or 26, he went to Ehrlichman to argue that, because there were many witnesses to the removal of the various items from the safe, it would be too dangerous to destroy them. He suggested that the material be turned over to the FBI and that sensitive documents be given directly to Patrick Gray, its Acting Director.<sup>12</sup> By following this procedure, Dean said, he would be able to testify under oath that to the best of his knowledge “everything found in the safe had been turned over to the FBI.”

Dean retrieved the State Department cables from Young and, on June 26 or 27, gave FBI agents all the materials from the safe except two envelopes containing politically sensitive materials and the Hunt notebooks. Dean told Ehrlichman what he had done on June 28 (apparently not mentioning the Hunt notebooks). Ehrlichman informed Dean that he was meeting with Gray later that day and that Dean should attend and bring the politically sensitive documents.<sup>13</sup>

Dean testified that, when Gray met with Dean and Ehrlichman in Ehrlichman’s office, Dean told Gray that the Hunt materials had been turned over to the FBI agents with the exception of two envelopes which he did not believe related to Watergate in any way. But, Dean testified, he told Gray “should they leak out, they would be political dynamite in an election year and thus should never be made public.”<sup>14</sup> Dean then gave the envelopes to Gray.<sup>15</sup>

Gray testified that Dean said that these files were “political dynamite,” and “clearly should not see the light of day.” He testified that, although Ehrlichman and Dean did not expressly instruct him to destroy the files, “the implication of the substance and tone of their remarks was that these two files were to be destroyed and I interpreted this to be an order from the counsel to the President of the United States issued in the presence of one of the two top assistants to the President of the United States.”<sup>16</sup> Ehrlichman has denied that anyone instructed Gray that the documents in the envelope should never see the light of day.<sup>17</sup>

<sup>6</sup> 3 Hearings 938.

<sup>7</sup> Fielding DNC deposition, May 15, 1973, pp. 39-40.

<sup>8</sup> 7 Hearings 2719, 2825.

<sup>9</sup> Edited Presidential Conversations, pp. 935, 1179.

<sup>10</sup> 3 Hearings 938, 948-49.

<sup>11</sup> Testimony of Dean in *United States v. Hunt, et al.*, Crim. No. 2827-72, Transcript of November 5, 1973, at 4.

<sup>12</sup> 3 Hearings 948.

<sup>13</sup> 3 Hearings 948; 6 Hearings 2614.

<sup>14</sup> 3 Hearings 948-49.

<sup>15</sup> 3 Hearings 948-49; 6 Hearings 2614-15.

<sup>16</sup> 9 Hearings 3467.

<sup>17</sup> 6 Hearings 2614-15.

However, Gray, in December 1972, burned the documents at his home in Connecticut.<sup>18</sup>

#### C. WHITE HOUSE CONCERN OVER THE MEXICAN AND DAHLBERG CHECKS

On the morning of June 21, 1972, Ehrlichman called Gray to inform him that Dean would be handling the Watergate inquiry for the White House and that he should deal directly with Dean on Watergate matters.<sup>19</sup> Dean and Gray met on the 21st and again on the 22nd. During these meetings Gray informed Dean that the FBI, in the course of investigating the \$100 bills found on the burglars and in their hotel rooms, had discovered that four Mexican checks totaling \$89,000 and a check for \$25,000 from Kenneth Dahlberg, which were originally contributed to the President's campaign, had been deposited in Bernard Barker's bank account in Miami.<sup>20</sup>

Dean testified that, about the same time, Mitchell and Stans asked him to attempt to prevent disclosure of the Dahlberg check, which might prove embarrassing for Dwayne Andreas, the campaign contributor behind the check. Dean testified he went to see Gray on June 22 at the request of Haldeman and Ehrlichman to discuss the Dahlberg and Mexican checks.<sup>21</sup> Dean had been informed by Stans that the checks had reached Barker's account after Sloan turned the checks over to Liddy for cashing. Liddy had used Barker for this purpose.<sup>22</sup> The serial numbers on the \$100 bills obtained from the burglars demonstrated that this was money Barker gave Liddy when he cashed the Mexican and Dahlberg checks.<sup>23</sup>

#### D. WHITE HOUSE USE OF THE CIA TO RESTRICT THE FBI WATERGATE INVESTIGATION

On June 22, Helms and Gray conversed by telephone. According to Gray, Helms, during that conversation, assured Gray that the CIA had nothing to do with the Watergate break-in.<sup>24</sup> Haldeman testified that the next day, acting at President Nixon's direction after meeting with him, Haldeman and Ehrlichman called CIA Director Helms and Deputy Director Walters to the White House for a meeting.<sup>25</sup> At this session, according to Helms and Walters, Haldeman asked if there were any CIA connection with the Watergate break-in. Helms replied there was none. Haldeman, however, suggested that an FBI investigation in Mexico might uncover CIA operations or assets. Helms replied that no FBI investigation of Watergate would jeopardize any CIA operations. Nevertheless, Haldeman and Ehrlichman directed Walters to meet with Gray and tell him that any further investigation into Mexico could endanger CIA assets there.<sup>26</sup>

Ehrlichman contends the meeting's only conclusion was that Walters and Gray "would sit down together and talk through what the problem might be."<sup>27</sup> Haldeman does not recall that the question of the

<sup>18</sup> 9 *Hearings* 3468.

<sup>19</sup> 9 *Hearings* 3450.

<sup>20</sup> 2 *Hearings* 577; 3 *Hearings* 942-43; 9 *Hearings* 3451.

<sup>21</sup> 3 *Hearings* 942-43; 9 *Hearings* 3450-51.

<sup>22</sup> 3 *Hearings* 942.

<sup>23</sup> 2 *Hearings* 577.

<sup>24</sup> 9 *Hearings* 3451.

<sup>25</sup> 7 *Hearings* 2884.

<sup>26</sup> 8 *Hearings* 3238-39; 9 *Hearings* 3404-5.

<sup>27</sup> 6 *Hearings* 2557.

Mexican money was raised at the meeting with Helms and Walters or with the President earlier in the day.<sup>28</sup> But Haldeman testified that he did request Walters to meet with Gray to assure that the FBI investigation would not expose "earlier national security or CIA activities."<sup>29</sup> Ehrlichman, however, recalled the President's concern about "the Mexican money or the Florida bank or whatever . . ."<sup>30</sup>

Walters and Gray met later in the afternoon. Walters told Gray he had just talked with "senior staff members" at the White House and then related the White House concern about the investigation into the Mexican money. Gray assured Walters that he would abide by the general agency agreement that the CIA and the FBI would not expose each other's sources.<sup>31</sup> A memorandum which Walters prepared on this meeting indicates that Gray was concerned with how to "low key" the Watergate investigation,<sup>32</sup> but Gray testified he did not mean to imply "that the FBI investigation would be other than aggressive and thorough" and only wanted to "pursue this investigation without compromising CIA assets and resources."<sup>33</sup>

After the meeting between Walters and Gray, Gray telephoned Dean, who urged that the FBI not conduct any interviews that would expose CIA sources. Gray agreed to postpone temporarily the interview of Manuel Ogarrío, whose name appeared on the four Mexican checks deposited in Barker's account.<sup>34</sup>

Meanwhile, General Walters, after discussions at the CIA, had concluded that the ongoing FBI investigation could not jeopardize any CIA sources or activities in Mexico.<sup>35</sup> On June 26, Walters was called by Dean regarding the matters Haldeman and Ehrlichman had earlier discussed with Walters at the White House. Walters testified that he checked on Dean with Ehrlichman, who told him it was appropriate to discuss these items with Dean because "he is in charge of the whole matter."<sup>36</sup>

Walters met with Dean on June 26. He testified, and Dean confirmed, that Dean pressed him about the possibility of CIA involvement in the Watergate break-in and that he emphasized to Dean that there was no CIA connection. He said he told Dean:

Mr. Dean, any attempt to involve the Agency in the stifling of this affair would be a disaster. It would destroy the credibility of the Agency with the Congress, with the Nation. It would be a grave disservice to the President. I will not be a party to it and I am prepared to resign before I do anything that would implicate the Agency in this matter.<sup>37</sup>

Walters testified that the following morning, June 27, he again received a telephone call from Dean asking him to come to Dean's office. He said Dean told him that "some of the suspects were wobbling and might talk" and that Dean again asked if he had discovered any CIA involvement in the matter. Walters testified that, when he re-

<sup>28</sup> 8 *Hearings* 3042.

<sup>29</sup> 7 *Hearings* 2884.

<sup>30</sup> 6 *Hearings* 2563.

<sup>31</sup> 9 *Hearings* 3407, 3452-53.

<sup>32</sup> Exhibit 129, 9 *Hearings* 3815.

<sup>33</sup> 9 *Hearings* 3452-53.

<sup>34</sup> 9 *Hearings* 3453-54.

<sup>35</sup> 9 *Hearings* 3408.

<sup>36</sup> 9 *Hearings* 3408.

<sup>37</sup> 9 *Hearings* 3409.

plied there was none, Dean asked whether there was any way the CIA could meet the bail or pay the salaries of the defendants while they were in jail. Walters said he informed Dean there was no way the Agency could involve itself in this.<sup>38</sup> Dean testified that he first heard discussion concerning payments to the defendants at a meeting on June 23 or 24 with Mardian, Mitchell and LaRue where Mardian told the group "the CIA could take care of this entire matter if they wished."<sup>39</sup>

Walters testified that, on June 28, Dean called him again, asking him to come to his office. Dean then told Walters that a scheduled meeting between Helms and Gray had been cancelled and that Ehrlichman wanted Gray to deal with Walters instead. Dean asked whether Walters could assist to limit the FBI investigation to the five defendants. Walters said he had no authority in this matter and told Dean that the CIA could become involved only at the President's direction.<sup>40</sup> Dean confirmed this testimony.<sup>41</sup>

Dean testified that his meetings with Walters were at Ehrlichman's express request. Dean said Ehrlichman told him to deal with Walters because he was a good friend of the White House, that the White House had installed him as Deputy Director so it could have influence over the CIA.<sup>42</sup>

On the evening of July 5, Gray telephoned Walters and said he would pursue the investigation in Mexico unless Helms or Walters wrote a letter stating that the investigation would uncover CIA assets or activities.<sup>43</sup> The next morning, Walters met with Gray. Walters testified, "I told Mr. Gray right at the outset that I could not tell and, even less, could I give him a letter saying that the pursuit of the FBI's investigation would in any way jeopardize CIA activities in Mexico."<sup>44</sup> It was at this meeting, Gray testified, that he first suspected that someone might be trying to interfere with his investigation.<sup>45</sup>

After Walters left Gray's office, Gray called Clark MacGregor in San Clemente and expressed the opinion that "people on the White House staff are careless and indifferent in their use of the CIA and FBI."<sup>46</sup> Gray asked MacGregor to inform President Nixon of his problem. Thirty-seven minutes later the President telephoned Gray. Gray testified that he said to the President:<sup>47</sup>

Mr. President, there is something that I want to speak to you about.

Dick Walters and I feel that people on your staff are trying to mortally wound you by using the CIA and FBI and by confusing the question of CIA interest in, or not in, people the FBI wishes to interview.

Gray testified that after a "slight pause," the President said:

Pat, you just continue to conduct your aggressive and thorough investigation.

<sup>38</sup> 9 *Hearings* 3410.

<sup>39</sup> 3 *Hearings* 945-46.

<sup>40</sup> 9 *Hearings* 3411-12.

<sup>41</sup> 3 *Hearings* 947-48.

<sup>42</sup> 3 *Hearings* 946.

<sup>43</sup> 9 *Hearings* 3413, 3457.

<sup>44</sup> 9 *Hearings* 3413.

<sup>45</sup> 9 *Hearings* 3523.

<sup>46</sup> 9 *Hearings* 3462.

<sup>47</sup> *Ibid.*

Gray testified he believed his message to the President was "adequate to put him on notice that the members of the White House staff were using the FBI and the CIA."<sup>48</sup> However, in his May 22, 1973, statement, the President maintained that, despite his July 6 conversation with Gray, he was not aware of "efforts to limit the investigation or to conceal possible involvement of members of the administration and the campaign committee."<sup>49</sup> The President did not ask Gray what people on the staff were trying to use the CIA and FBI; he did not indicate that the charges were serious or that he would suspend or fire those involved. Gray testified:

Frankly, I expected the President to ask me some questions and for two weeks thereafter, I think it was on the 12th and again, the 28th, I asked General Walters if the President had called him. And when I heard nothing, you know, I began to feel that General Walters and I were alarmists...<sup>50</sup>

In his May 22, 1973 statement, the President admitted directing Haldeman and Ehrlichman to take steps to ensure that the FBI Watergate investigation not expose "an unrelated covert operation of the CIA."<sup>51</sup> The President also conceded in his May 22 statement that he had directed Haldeman and Ehrlichman to restrict the FBI Watergate investigation to prevent the exposure of the activities of the Plumbers. As is shown later in this report, the payoffs and promises made to Howard Hunt appear to have been largely motivated by a fear of Hunt's revelation of his activities for the Plumbers.

#### E. MARDIAN-LARUE-LIDDY MEETING

On June 20 or 21, 1972, Liddy, Mardian and LaRue met in LaRue's apartment to allow Liddy to give a firsthand report of the Watergate operation.<sup>52</sup> Liddy told Mardian and LaRue that he had employed the five men arrested at the DNC, that he and Hunt had organized the operation, that they had occupied a room in the Watergate Hotel during the break-in and that he had shredded documents from his files that related to the break-in.<sup>53</sup> Liddy assured LaRue and Mardian that the operation could not be traced to him, but that, if an investigation did implicate him, he would never reveal any information. He stated that he was even willing to be assassinated "on any street corner at any time" if LaRue and Mardian were not satisfied with his assurances.<sup>54</sup> Mardian testified<sup>55</sup> that Liddy conveyed the impression that he conducted the break-in "on the express authority of the President" with CIA assistance. According to Mardian, Liddy said Hunt felt it was CRP's obligation to provide bail money, legal fees and family support.<sup>56</sup>

LaRue testified that Liddy did not discuss who had approved the Watergate operation, although he did mention that Magruder had been pressuring him to improve the surveillance equipment in the DNC

<sup>48</sup> 9 *Hearings* 3498.

<sup>49</sup> Presidential press statement, May 22, 1973; see Appendix of Legal Documents at 633.

<sup>50</sup> 9 *Hearings* 3498.

<sup>51</sup> See Appendix of Legal Documents at p. 632.

<sup>52</sup> 6 *Hearings* 2286-87, 2357.

<sup>53</sup> 6 *Hearings* 2286-87, 2309, 2362.

<sup>54</sup> 6 *Hearings* 2288, 2362.

<sup>55</sup> 6 *Hearings* 2359.

<sup>56</sup> 6 *Hearings* 2358.

offices.<sup>57</sup> During this meeting, LaRue first became aware of financial commitments to the Watergate defendants for bail, attorneys' fees and family support.<sup>58</sup>

On the same day, LaRue and Mardian briefed Mitchell on Liddy's report. According to Mitchell, he then learned, for the first time, of Liddy's involvement in the Watergate burglary, "the Ellsberg matter . . . the Dita Beard matter, and a few of the other little gems." <sup>59</sup> Referring to these other scandals as "White House horrors," Mitchell testified that, in his opinion, their exposure would have been more destructive to the reelection campaign than the Watergate break-in, and that, therefore, he had participated in activities to conceal these matters from the public during the campaign.<sup>60</sup>

#### F. PRESSURES ON HUGH SLOAN

On June 22, 1972, FCRP treasurer Hugh Sloan and Magruder met in Magruder's office prior to Sloan's being interviewed by FBI agents later in the day. Magruder suggested the total amount Sloan had disbursed to Liddy was approximately \$75,000-\$80,000. When Sloan protested that this figure was far too low and that he had no intention of perjuring himself, Magruder, according to Sloan's testimony, replied, "You may have to."<sup>61</sup>

On the same day, Sloan testified, he was questioned by LaRue concerning a \$50,000 cash contribution delivered to Sloan by Herbert Porter after April 7, 1972. Sloan confirmed to LaRue that he had received this cash, which was then still in his safe because Porter had never identified its source.

Sloan testified that, when he expressed his concerns regarding the large expenditures of money to Mitchell, Mitchell's only response was: "When the going gets tough, the tough get going."<sup>62</sup> Sloan testified that he did not understand what Mitchell meant and found his remark of no assistance.<sup>63</sup> Magruder confirms Sloan's recollection of Mitchell's response to Sloan's expressions of concern.<sup>64</sup>

The FBI interview of Sloan was confined to the identification of Alfred Baldwin and his employment at CRP. After this interview, Sloan testified, LaRue sought a briefing on the FBI's questions and emphasized to Sloan the importance of giving a low figure for "the Liddy money" because it was "very political[ly] sensitive."<sup>65</sup>

Sloan was becoming very concerned and thought he should talk to top White House officials about the troublesome CRP financial transactions. He arranged an appointment with Ehrlichman on June 23. Prior to that meeting, Sloan testified, he stopped by Dwight Chapin's office, expressed his concerns, and was told by Chapin that he was only overwrought and needed a vacation.<sup>66</sup>

Sloan testified that, when he met with Ehrlichman, he did not "point fingers." He did not mention his conversation with Magruder, but told

<sup>57</sup> 6 *Hearings* 2288-89, 2304.

<sup>58</sup> 6 *Hearings* 2307.

<sup>59</sup> 4 *Hearings* 1621-22; see also 6 *Hearings* 2318, 2362-63.

<sup>60</sup> 4 *Hearings* 1625-26.

<sup>61</sup> 2 *Hearings* 543; see also 2 *Hearings* 800-1.

<sup>62</sup> 2 *Hearings* 544.

<sup>63</sup> 2 *Hearings* 544, 809.

<sup>64</sup> 2 *Hearings* 809.

<sup>65</sup> 2 *Hearings* 544.

<sup>66</sup> 2 *Hearings* 544-45.

Ehrlichman he believed that somebody "external to the campaign" should look at the cash disbursements since the entire campaign might be in danger. According to Sloan, Ehrlichman's initial response was to interpret Sloan's statement as a personal problem. Ehrlichman said he would be glad to help Sloan obtain a lawyer, but then, Sloan testified, Ehrlichman said, "Do not tell me any details; I do not want to know; my position would have to be until after the election that I would have to take executive privilege."<sup>67</sup> Ehrlichman generally concurred in Sloan's testimony.<sup>68</sup>

On June 23, Sloan made a final report to Stans on cash disbursements of pre-April 7 contributions. This report showed cash disbursements totaling \$1,777,000. Of this amount, Liddy had received \$199,000. Other cash disbursements of significance were \$250,000 to Kalmbach, \$350,000 to Strachan, \$100,000 to Porter, and \$20,000 to Magruder. As of the final report to Stans, there was a balance of \$81,000 in cash remaining.<sup>69</sup>

According to Sloan, Stans, fearing a GAO audit, told Sloan to take approximately \$40,000 of the remaining \$81,000 home with him.<sup>70</sup> Sloan understood that Stans would take a similar amount with him. However, Sloan said that Stans later told him he never removed the money from the office.<sup>71</sup> On June 23, at Herbert Kalmbach's suggestion, Sloan destroyed the cash book he had used to prepare the report for Stans.<sup>72</sup> Stans later gave his \$40,000 to LaRue either directly or through Mardian. Sloan gave his \$40,000 to LaRue about July 5, 1972, after receiving a telephone call from LaRue asking for the money.<sup>73</sup>

Around June 24, according to Magruder, Mitchell and Magruder requested that Stans "try to work with Mr. Sloan to see if Mr. Sloan could be more cooperative about what had happened with the money."<sup>74</sup> Sloan testified that he met with Mardian and gave him a full report on the cash disbursements from the pre-April 7 contributions. Sloan recalls that when Mardian learned about the \$199,000 to Liddy he exploded, saying, "Magruder lied to John Mitchell. He told him it was only \$40,000."<sup>75</sup> Mardian's account is basically consistent with Sloan's.<sup>76</sup>

On July 5, after Sloan had returned from a Bermuda vacation, Magruder asked him to have a drink at the Black Horse Tavern. During this meeting Magruder suggested that they visit U.S. Attorney Harold Titus. Magruder said he would tell Titus he authorized the payments to Liddy and that Sloan should merely confirm he made distributions under Magruder's instructions. However, according to Sloan, Magruder said that they had to agree on a figure. The figure mentioned this time by Magruder, \$40,000-\$45,000, was even lower than the figure Magruder suggested earlier. Sloan testified he told Magruder he would think about the request.<sup>77</sup> But when Sloan met Magruder again on the morning of July 6, he told Magruder he would

<sup>67</sup> 2 *Hearings* 545-46.

<sup>68</sup> 7 *Hearings* 2699.

<sup>69</sup> 2 *Hearings* 535-40, 546, 750-51, 891.

<sup>70</sup> 2 *Hearings* 546-47.

<sup>71</sup> *Ibid.*

<sup>72</sup> 2 *Hearings* 572.

<sup>73</sup> 2 *Hearings* 548, 702.

<sup>74</sup> 2 *Hearings* 809.

<sup>75</sup> 2 *Hearings* 547.

<sup>76</sup> 6 *Hearings* 2363.

<sup>77</sup> 2 *Hearings* 548.



not perjure himself. Sloan said Magruder dropped the subject and never again suggested seeing Titus. According to Sloan, LaRue checked with him later that day to ascertain whether he had agreed on a figure with Magruder, but, when Sloan informed LaRue what he told Magruder, LaRue discontinued the conversation.<sup>78</sup>

On July 6, Sloan testified, he met with Kenneth Parkinson and Paul O'Brien, attorneys for CRP, during their debriefing of Mrs. Judy Hoback, Sloan's bookkeeper, following her testimony before the grand jury. Robert Odle was also present at the beginning of the meeting. Sloan testified he asked everyone to leave the room except the attorneys because he wanted to talk to them alone.<sup>79</sup> Sloan then gave O'Brien and Parkinson a complete accounting of the cash disbursements and also informed them of Magruder's efforts to have Sloan alter his story. Sloan testified that O'Brien and Parkinson became angry and said, "Well, we have been lied to by the people here. We have not even been able to see John Mitchell, and we are a month in this thing."<sup>80</sup>

Sloan said the attorneys remarked that, with the new information they had available to them, they needed time to confront other campaign officials and suggested that Sloan leave town if he had any legitimate business reason to do so. Mr. Stans at that time was on a trip on the west coast and the attorneys suggested that Sloan join him. Stans, during his testimony, recalled that Mardian recommended that Sloan join him in California.<sup>81</sup> That evening, Sloan received a telephone call from LaRue in which LaRue impressed on him the urgency of his departure to California. LaRue suggested he take a 6 a.m. flight from Dulles Airport the next morning. Sloan followed this recommendation.<sup>82</sup>

Sloan returned from California on July 12 and met with LaRue the next day. Sloan said LaRue began by reviewing the options open to Sloan. He suggested that Sloan might have campaign law problems and might consider taking the fifth amendment with regard to any testimony before the grand jury. Sloan remarked to LaRue that it appeared obvious to him that the only way for him to stay in favor with the campaign organization was either to commit perjury or plead the fifth amendment, but that he would do neither. He told LaRue it would probably be in the interest of all concerned if he resigned.<sup>83</sup>

LaRue did not challenge Sloan's assessment of the situation and suggested that he talk to Stans. Sloan called Stans that evening; Stans told him not to talk on the telephone but to come to see him the following morning. When Sloan met Stans the next morning, July 14, Stans told him that he had already informed the FBI that Sloan had resigned. Although Sloan had not yet resigned, he did so immediately.<sup>84</sup> Stans confirmed the call, stating that Sloan wanted to talk about his resignation.<sup>85</sup>

On the same day, Sloan retained a lawyer and on July 20 he and his attorney met with Messrs. Silbert, Glanzer and Campbell of the

<sup>78</sup> 2 *Hearings* 549.

<sup>79</sup> *Ibid.*

<sup>80</sup> 2 *Hearings* 550.

<sup>81</sup> 2 *Hearings* 776.

<sup>82</sup> 2 *Hearings* 550.

<sup>83</sup> 2 *Hearings* 550-51.

<sup>84</sup> 2 *Hearings* 551-52.

<sup>85</sup> 2 *Hearings* 778.

U.S. Attorney's Office and gave them a complete statement, including Sloan's account of Magruder's effort to suborn his perjury.<sup>86</sup>

### G. MAGRUDER AND PORTER PERJURY

Mitchell resigned his position as campaign director on June 30, 1972, but Magruder was retained as deputy director.<sup>87</sup> Dean testified that during the last 10 days of June he attended a meeting in Haldeman's office where Haldeman and Ehrlichman asked Dean for his recommendation on removing Mitchell and Magruder from the reelection committee. Dean said he told them there was a real chance Magruder would be indicted and thus should be removed in a graceful way that would not jeopardize his position.<sup>88</sup> Dean was therefore surprised when it was publicly announced that Mitchell was resigning but that Magruder would remain. He said it was clear to him that Magruder was the link to the White House and that he might not hold his tongue if indicted. Dean testified that he specifically warned Haldeman about this possibility.<sup>89</sup>

Thereafter, Dean testified, Haldeman and Ehrlichman displayed a greatly increased interest in Magruder's problem. Dean testified he kept them informed on the strategy being developed to create the appearance that involvement in the break-in stopped at Liddy. Haldeman and Ehrlichman, according to Dean, frequently asked him how Magruder was progressing with the FBI investigation and his preparation for the grand jury. Dean said he also received calls concerning Magruder's status from Larry Higby, Haldeman's staff assistant.<sup>90</sup> Ehrlichman, however, denies he used Dean as a liaison man to keep informed about Magruder.<sup>91</sup>

Magruder testified, and Mitchell confirmed, that he (Magruder) volunteered to develop a coverup story that would conceal his involvement and leave Liddy as the top figure in the Watergate conspiracy.<sup>92</sup> He said it was important that involvement be stopped at Liddy, since "if it got to me, it would go higher."<sup>93</sup>

The coverup story, Magruder testified, was developed during a series of meetings from the time of the break-in until his second grand jury appearance, most of which were in Mitchell's office. Attending the meetings were Mitchell, LaRue, Mardian, Dean and himself.<sup>94</sup> At some point prior to his second grand jury appearance on August 18, 1972, a rationale was developed to justify Liddy's expenditure of almost \$200,000. Magruder testified that the story invented involved exaggerating "to the tune of \$230,000" the amount of money spent on certain legitimate activities for which Liddy was responsible.<sup>95</sup> Magruder said that Porter was willing to help on the coverup story, "so he took care of, in effect, \$100,000 and I took care of, in effect, \$150,000 by indicating that Mr. Liddy had legal projects for us in the intelligence field." Magruder worked on this story with Mitchell, Dean, LaRue

<sup>86</sup> 2 *Hearings* 552.

<sup>87</sup> 5 *Hearings* 1885.

<sup>88</sup> 3 *Hearings* 951.

<sup>89</sup> 3 *Hearings* 951-52.

<sup>90</sup> 3 *Hearings* 952.

<sup>91</sup> 7 *Hearings* 2845.

<sup>92</sup> 2 *Hearings* 802; 4 *Hearings* 1625-26.

<sup>93</sup> 2 *Hearings* 802.

<sup>94</sup> 3 *Hearings* 951-52; 4 *Hearings* 1624.

<sup>95</sup> 2 *Hearings* 801-2.

and Mardian. "My primary contacts on the story were Mr. Dean and Mr. Mitchell," Magruder told the committee.<sup>96</sup> Dean agrees.<sup>97</sup>

Ehrlichman, during a meeting with the President and Haldeman on April 14, 1973, stated that Mitchell had admitted being present when Dean helped Magruder prepare false testimony for the grand jury.<sup>98</sup>

Porter testified he agreed to join in the false coverup story when Magruder swore to him that neither Magruder nor anyone higher than Liddy in the campaign or the White House had any involvement in the Watergate break-in. Porter said Magruder told him the problem was with the amount of money spent, that Liddy was authorized to spend the money for certain dirty tricks but "nothing illegal," and that the figures could be very embarrassing to the President, Mitchell, Haldeman and others. Magruder told Porter that his name was suggested as someone whom "we can count on to help in this situation."<sup>99</sup> Together they agreed that Porter would falsely tell the FBI and the grand jury that \$100,000 of the money Liddy spent was for the purpose of infiltrating radical groups that could endanger the personal safety of the surrogate speakers for whom Porter was responsible.<sup>1</sup> Dean testified he informed Haldeman and Ehrlichman of Magruder's fabricated story and Porter's corroboration.<sup>2</sup> Ehrlichman, however, contended that Dean did not apprise him of such information.<sup>3</sup>

LaRue testified that during June, July, and August, he attended meetings at which Magruder discussed his coverup story, which LaRue knew to be false.<sup>4</sup> LaRue said his motivation in helping prepare this fake account was a desire to do all in his power to keep secret information regarding the connection between the burglary and CRP.<sup>5</sup> Mitchell testified that he listened to rehearsals of Magruder's story, which he knew to be perjurious.<sup>6</sup>

Prior to their appearances before the grand jury, Magruder and Porter gave the false coverup story to FBI agents.<sup>7</sup> When Magruder made his first grand jury appearance on July 5, 1972, he testified only as to the organization of the CRP. However, when called for his second appearance on August 18, 1972, he was aware he was a target of its investigation. The day before his grand jury appearance he was briefed by lawyers for CRP and Mr. Mardian. Ehrlichman informed the President of these activities during an April 15, 1973, meeting, stating that "apparently Mardian was able to get around and coach witnesses," he "was very heavy-handed," and asked the witnesses "to say things that weren't true."<sup>8</sup>

Magruder, before his second appearance, was interrogated for approximately 2 hours by Dean and approximately one-half hour by Mitchell.<sup>9</sup> Dean, fully aware of the false story Magruder was going to tell, played "devil's advocate" asking Magruder questions the prosecutor might ask.<sup>10</sup>

<sup>96</sup> 2 *Hearings* 801-3.

<sup>97</sup> 3 *Hearings* 952.

<sup>98</sup> Edited Presidential Conversations, p. 527.

<sup>99</sup> 2 *Hearings* 635.

<sup>1</sup> 2 *Hearings* 636.

<sup>2</sup> 3 *Hearings* 952.

<sup>3</sup> 7 *Hearings* 2845.

<sup>4</sup> 6 *Hearings* 2292.

<sup>5</sup> 6 *Hearings* 2340-41.

<sup>6</sup> 5 *Hearings* 1865.

<sup>7</sup> 2 *Hearings* 637, 803.

<sup>8</sup> Edited Presidential Conversations, pp. 687-88.

<sup>9</sup> 2 *Hearings* 803.

<sup>10</sup> 2 *Hearings* 803, 869 ; 3 *Hearings* 952.

On August 18, 1972, Magruder gave the false coverup story to the grand jury.<sup>11</sup> After Magruder's appearance, Dean, at Haldeman's request, called Assistant Attorney General Henry Petersen to ask how Magruder's testimony had gone.<sup>12</sup> Dean testified Petersen said Magruder "had made it through by the skin of his teeth."<sup>13</sup>

According to Petersen, who subsequently informed the President of this call during an April 16, 1973, meeting,<sup>14</sup> he later called Dean back to give him Assistant U.S. Attorney Earl Silbert's evaluation: "Magruder had been a good witness in his own behalf," but that no one believed "the story about the money."<sup>15</sup> Dean repeated Petersen's comments to Mitchell, Magruder, and Haldeman. Dean testified that Haldeman was "very pleased" because the White House strategy to "stop the involvement at Liddy" was succeeding.<sup>16</sup>

Magruder was called before the grand jury a third time in early September to testify concerning entries in his diary reflecting meetings in Mitchell's office on January 27 and February 4 among Liddy, Magruder, Dean and Mitchell. Magruder testified he met with Mitchell and Dean to arrive at an explanation for these diary entries. The story finally developed that the first meeting on January 27 had been canceled and that, at the second, the participants discussed the new election law. The presence at the meeting of Liddy, counsel for CRP, and of Dean, Counsel to the President, gave some credence to this account. An initial suggestion that the diary entries be erased was abandoned when it was recognized that erasures could be discovered by the FBI. Magruder testified he gave this false story to the grand jury when he appeared.<sup>17</sup>

#### H. PARTICIPATION OF WHITE HOUSE AND CRP PERSONNEL IN FBI INTERVIEWS

White House and CRP officials took other steps to keep abreast of and interfere with the Watergate investigation. When White House staff personnel were interviewed by FBI agents, Dean or his assistant, Fred Fielding, attended the interviews.<sup>18</sup> Also, in most cases when FBI agents interviewed CRP staff persons, CRP counsel O'Brien or Parkinson were present. And, on October 12, the White House received 82 FBI investigative reports relating to Watergate.<sup>19</sup>

The interest in and preparation for the FBI interview of Kathleen Chenow, the secretary for the Plumbers, is illustrative of the concern and activity in the White House regarding the FBI's investigation. Dean testified that, when the FBI indicated its interest in Chenow, she was in London. Dean discussed the Chenow matter with Ehrlichman and suggested that someone go to London and explain to her that she should not reveal to the FBI Hunt's and Liddy's activities with the Plumbers. With Ehrlichman's approval, Fielding flew to London and brought Chenow back to Washington on first class airline accommodations paid for by the White House. Fielding and Young

<sup>11</sup> 2 *Hearings* 803.

<sup>12</sup> 3 *Hearings* 952.

<sup>13</sup> *Ibid.*

<sup>14</sup> Edited Presidential Conversations, pp. 868-9.

<sup>15</sup> 9 *Hearings* 3651.

<sup>16</sup> 3 *Hearings* 952.

<sup>17</sup> 2 *Hearings* 804.

<sup>18</sup> 3 *Hearings* 940-41; Gray confirmation hearings, p. 653.

<sup>19</sup> Gray confirmation hearings, pp. 630, 677-78.

briefed Chenow before her FBI interview and were present when the FBI questioned her.<sup>20</sup>

Moreover, special arrangements were developed to prevent top White House officials from directly testifying before the grand jury. Certain officials—Colson, Krogh, Young, Chapin and Strachan—were permitted to give their testimony to the prosecutors at the Department of Justice and were, therefore, not exposed to direct questioning by grand jurors. When Dean asked Petersen to repeat this special procedure for Maurice Stans, Petersen at first refused.<sup>21</sup> Under direction from the President, Ehrlichman then approached Petersen and Kleindienst to prevent Stans from appearing before the grand jury.<sup>22</sup> Although both told Ehrlichman he could not dictate policy to the Justice Department, they agreed to make another concession for Stans and permitted his interrogation by the prosecutors with no grand jurors present.<sup>23</sup>

In considering the FBI investigation it is important to note that neither the FBI nor other Department of Justice personnel interviewed Robert A. Reisner, the administrative assistant to CRP deputy director Magruder.<sup>24</sup> The first time Reisner was subpoenaed by any investigative body was on or about March 30, 1973, when he was subpoenaed by this committee.<sup>25</sup> The failure to question Reisner was a crucial omission because, as Magruder later testified, the coverup might have ended months earlier if Reisner had been interrogated.<sup>26</sup>

#### I. THE PRESIDENT'S STATEMENT OF AUGUST 29—THE SO-CALLED DEAN REPORT

On August 29, 1972, President Nixon, at a press conference, told the American people that Dean had conducted a "complete investigation" for the White House which enabled the President to declare: "I can state categorically that no one in the White House staff, no one in this administration, presently employed, was involved in this very bizarre incident."<sup>27</sup> The President was briefed for this press conference by Ehrlichman and Ziegler.<sup>28</sup> Dean testified before the committee that there was no "Dean Report," that he never made the investigation referred to by the President.<sup>29</sup> To the contrary, Dean testified, far from investigating, he was spending most of his time participating in the coverup on instructions from Haldeman and Ehrlichman as liaison between the White House and CRP. The Edited Presidential Conversations of a March 20, 1973, telephone call between the President and Dean casts further light on the President's August 29 statement. In the March 20 telephone call, the President suggested to Dean that he prepare some kind of report that would appear complete, but would be "very incomplete" which the President could use for public release and to reassure the Cabinet. Dean asked, "As we did when you, back in August, made that statement that—" and the President replied, "That's right."<sup>30</sup>

<sup>20</sup> 3 *Hearings* 941.

<sup>21</sup> 3 *Hearings* 954.

<sup>22</sup> 7 *Hearings* 2700-1.

<sup>23</sup> 9 *Hearings* 3564-65, 3580, 3618-20.

<sup>24</sup> 2 *Hearings* 489.

<sup>25</sup> 2 *Hearings* 496, 507-8.

<sup>26</sup> 2 *Hearings* 805.

<sup>27</sup> *Washington Post*, August 30, 1972, p. A1.

<sup>28</sup> 7 *Hearings* 2726, 2726.

<sup>29</sup> 3 *Hearings* 955-56; 4 *Hearings* 1510.

<sup>30</sup> Edited Presidential conversations, pp. 167-68.

## J. THE SEPTEMBER 15 MEETING BETWEEN DEAN AND THE PRESIDENT

The grand jury returned indictments against Liddy, Hunt, McCord, Barker, Sturgis, Martinez, and Gonzales on September 15, charging a number of crimes arising out of the Watergate break-in. The coverup had worked and the indictments had stopped with Liddy. Higher CRP and White House officials were not yet exposed.

John W. Hushen, the Justice Department's Director of Public Information, declared on that day that the Department had concluded its investigation, stating: "We have absolutely no evidence to indicate that any others should be charged."<sup>31</sup> Hushen's comments were followed the next day by those of Attorney General Kleindienst, who said that the investigation by the FBI and the U.S. Attorney's Office had been "one of the most extensive, objective, and thorough" in many years. That same day Assistant Attorney General Petersen denied there had been a "whitewash" and cited statistics to prove the thoroughness of the investigation.<sup>32</sup>

On September 15, after the indictments were issued, the President summoned Dean to the Oval Office.<sup>33</sup> Haldeman was also present.<sup>34</sup> Dean testified:

The President told me that . . . Haldeman . . . had kept him posted on my handling of the Watergate case. The President told me I had done a good job and he appreciated how difficult a task it had been and the President was pleased that the case had stopped with Liddy . . . I told him that all that I had been able to do was to contain the case and assist in keeping it out of the White House. I also told him that there was a long way to go before this matter would end and that I certainly could make no assurances that the day would not come when this matter would start to unravel . . .<sup>35</sup>

According to Dean, other topics discussed at the meeting included the bugging of the 1968 Nixon campaign, the date of the criminal trial, progress in the various Watergate civil suits, press coverage of Watergate, a GAO audit, the Patman Committee's inquiry, use of the IRS to attack administration "enemies," and post-election plans to place officials responsive to White House requirements in the IRS and other Federal agencies. He said the President also asked him "to keep a good list of the press people giving us trouble, because we will make life difficult for them after the election."<sup>36</sup> When he left the meeting, Dean said, he was "convinced" that the President was aware of the coverup.<sup>37</sup>

Haldeman gave a different version of this meeting. He denied any contemporaneous knowledge of the coverup or that he had informed the President of such activities. He testified that the President merely expressed his satisfaction as to Dean's investigative work which had shown no involvement of White House personnel in the break-in. Haldeman confirmed that the 1968 bugging of the Nixon campaign was

<sup>31</sup> *New York Times*, September 16, 1972, p. 1.

<sup>32</sup> *Washington Post*, September 17, 1972.

<sup>33</sup> 4 *Hearings* 1474-75.

<sup>34</sup> 4 *Hearings* 1475.

<sup>35</sup> 3 *Hearings* 957-59; 4 *Hearings* 1372, 1474-77, 1494-95.

<sup>36</sup> 3 *Hearings* 958-59; 4 *Hearings* 1477-82.

<sup>37</sup> 3 *Hearings* 959, 1028; 4 *Hearings* 1435, 1564-67.

discussed along with the civil suit, the GAO audit, the Patman Committee investigation, and use of the IRS.<sup>38</sup>

Alexander Butterfield's testimony before the committee revealed that there is a complete tape recording of what was said by the participants at the September 15 meeting.<sup>39</sup> This fact was corroborated by Haldeman who informed the committee that he had in fact listened to the tape.<sup>40</sup> The committee on July 17, 1973, requested the President to provide the committee with the tape recording of this meeting, among others.<sup>41</sup> When the President refused on July 23, 1973, the committee issued a subpoena to the President for this and other tape recordings.<sup>42</sup> The President on July 25, 1973, refused to comply with this subpoena<sup>43</sup> and the matter was taken to court. (See Chapter 9.)

The Select Committee has now received—along with the American public—an edited, unauthenticated partial transcription of the tape recording of this conversation and others prepared by the White House. These transcripts are not conclusive proof as to the contents of these conversations. They contain a number of deletions and portions of the taped conversation are alleged to be inaudible or unintelligible. Also transcripts cannot provide voice tone and inflections which at times are crucial to understanding the meaning of speakers' words. Moreover, the presidential version of the September 15 meeting differs in significant respects from that purportedly prepared by the House Judiciary Committee, which has a copy of the actual recording.<sup>44</sup> At the least, however the Presidential transcripts are useful as White House versions of what occurred and thus—with the caveat that they are not the best evidence available—they have been utilized by the committee in the preparation of this report.

The transcript of the September 15 meeting supports many aspects of Dean's testimony. Thus the transcript begins with the President's greeting Dean: "You had quite a day today didn't you? You got Watergate on the way didn't you?" Dean replied, "We tried,"<sup>45</sup> and then, in answer to Haldeman's question "How did it all end up?", answered "Ah, I think we can say 'well' at this point."<sup>46</sup> Shortly thereafter the following colloquy occurred:

D. Three months ago I would have had trouble predicting there would be a day when this would be forgotten but I think I can say that 54 days from now nothing is going to come crashing down to our surprise.

P. That what?

D. Nothing is going to come crashing down to our surprise.

P. Oh well, this is a can of worms as you know a lot of this stuff that went on. And the people who worked this way are awfully embarrassed. *But the way you have handled all this seems to me has been very skillful putting your fingers*

<sup>38</sup> 7 Hearings 2888-89.

<sup>39</sup> 5 Hearings 2073-91.

<sup>40</sup> 7 Hearings 2894.

<sup>41</sup> 5 Hearings 2178-79.

<sup>42</sup> 6 Hearings 2478-79.

<sup>43</sup> 7 Hearings 2657.

<sup>44</sup> See *Washington Post*, May 12, 1974, pp. A26-28.

<sup>45</sup> The purported House version also has Dean responding, "Quite a three months."

<sup>46</sup> Edited Presidential Conversations, p. 55.

*in the leaks that have sprung here and sprung there.* [Emphasis added.]<sup>47 48</sup>

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D. Well as I see it, *the only problems we may have are the human ones* and I will keep a close watch on that. [Emphasis added.]

P. Union?

D. Human.

H. Human frailties.

D. People get annoyed—some fingerprinting—false accusations—

P. You mean on this case?

D. On this case. There is some bitterness between the Finance Committee and the Political Committee—they feel they are taking all the heat and all the people upstairs are bad people—not being recognized.

P. *We are all in it together. This is a war. We take a few shots and it will be over. We will give them a few shots and it will be over. Don't worry. I wouldn't want to be on the other side right now. Would you?*<sup>49</sup> [Emphasis added.]

The transcript also records significant discussion relating to possible hearings proposed by Congressman Wright Patman, Chairman of the House Banking and Currency Committee:

D. [The Patman Committee] is the last forum where we have the least problem right now. Kennedy has already said he may call hearings of the Administrative Practices subcommittee. As these committees spin out oracles we used to get busy on each one. I stopped doing that about two months ago.<sup>50</sup> We just take one thing at a time.

P. You really can't sit and worry about it all the time. The worst may happen but it may not. *So you just try to button it up as well as you can and hope for the best, and remember basically the damn business is unfortunately trying to cut our losses.*<sup>51</sup>

D. Certainly that is right and certainly it has had no effect on you. That's the good thing.

H. No, it has been kept away from the White House and of course completely from the President. The only tie to the White House is the Colson effort they keep trying to pull in.

D. And of, course, the two White House people of lower level—indicted—one consultant and one member of the Domestic Staff. That is not very much of a tie.

H. That's right.<sup>52</sup> [Emphasis added.]

The edited transcript does not contain a statement by Dean, as he testified, that "all that I had been able to do was to contain the

<sup>47</sup> *Id.* at 62.

<sup>48</sup> The purported House version reads, "... but the way you, you've handled it, it seems to me, has been very skillful, because you—putting your fingers in the dike every time that leaks have sprung here and sprung there."

<sup>49</sup> Edited Presidential Conversations, p. 64.

<sup>50</sup> The purported House version reads, "... as this case has been all along, you spin out horrors that uh you can conceive of, and so we just don't do that. I stopped that about, uh, two months ago."

<sup>51</sup> The House version allegedly states in part: "And remember that basically the damn business is just one of those unfortunate things, we're trying to cut our losses."

<sup>52</sup> Edited Presidential Conversations, pp. 69–70.



case and assist in keeping it out of the White House" and that "there was a long way to go before this matter would end and . . . I certainly could make no assurances that the day would not come when this matter would start to unravel." Although the edited transcript also does not reflect a discussion between the President and Dean regarding the use of the IRS respecting administration enemies, or any specific reference to an IRS investigation of DNC chairman Lawrence O'Brien, the reconstruction of this meeting prepared by White House Counsel Fred Buzhardt and submitted to the committee confirms that there was such a discussion at the September 15 meeting.<sup>53</sup> Moreover, the transcript indicates that the final portion of the conversation is deleted.<sup>54</sup>

## K. PAYOFFS TO WATERGATE DEFENDANTS

### 1. EARLY PAYOFF DISCUSSIONS

As already noted, on June 20 or 21, Liddy met with LaRue and Mardian and told them of commitments made to provide bail, legal expenses and family support funds for the Watergate defendants.<sup>55</sup> Mardian said he also discussed Hunt's request to CRP for legal fees with CRP counsel Kenneth Parkinson and Paul O'Brien, and with William Bittman, Hunt's attorney. Mardian said he thought this request was blackmail and should not be paid. He said he had no other discussions regarding payment of money to the defendants.<sup>56</sup>

Dean, however, testified that Mardian suggested that the CIA assist regarding financial support for the defendants.<sup>57</sup> This discussion concerning the CIA, Dean said, arose at a meeting among Dean, Mardian and Mitchell during which Mitchell suggested that Dean contact Ehrlichman and Haldeman to have the White House request CIA financial assistance for the defendants.<sup>58</sup> Dean did meet with General Walters on June 26, June 27 and June 28 and asked Walters whether the CIA would provide financial assistance for bail, legal defense and family support. Walters answered in the negative.<sup>59</sup>

### 2. THE ACTIVITIES OF HERBERT KALMBACH AND TONY ULASEWICZ

On June 28, Dean testified he met with Mitchell, LaRue and Mardian and informed them that the CIA would not provide financial assistance.<sup>60</sup> According to Dean, LaRue then indicated that Stans had only limited cash—\$70,000 or \$80,000—and that much more would be needed.<sup>61</sup> Dean testified that Mitchell asked him to obtain Haldeman's and Ehrlichman's approval to use Herbert Kalmbach to raise the necessary money.<sup>62</sup> Mitchell denied being at this meeting and asking Dean to acquire Kalmbach's services.<sup>63</sup>

Dean testified he conveyed the suggestion to Haldeman and Ehrlichman who told him to contact Kalmbach. During an April 14, 1973,

<sup>53</sup> Exhibit 70-A, 4 *Hearings* 1796.

<sup>54</sup> Edited Presidential Conversations, p. 75.

<sup>55</sup> 6 *Hearings* 2289, 2358.

<sup>56</sup> 6 *Hearings* 2367-68.

<sup>57</sup> 3 *Hearings* 945-46.

<sup>58</sup> 3 *Hearings* 946.

<sup>59</sup> 3 *Hearings* 946-47.

<sup>60</sup> 3 *Hearings* 949-50.

<sup>61</sup> 3 *Hearings* 950.

<sup>62</sup> 3 *Hearings* 950.

<sup>63</sup> 4 *Hearings* 1672.

meeting among the President, Ehrlichman and Haldeman, Haldeman confirmed this fact, stating, "we [Ehrlichman and Haldeman] referred him [Dean] to Kalmbach."<sup>64</sup> As a result, Dean called Kalmbach on June 28, 1972, and told him that Haldeman, Ehrlichman and Mitchell had requested that he come to Washington as quickly as possible.<sup>65</sup> Kalmbach immediately flew to Washington and met with Dean on June 29.<sup>66</sup> Dean knew Kalmbach did not wish to engage in further fundraising. In order to persuade Kalmbach to take this new assignment, Dean said, he told Kalmbach all he knew respecting the break-in and suggested that the scandal might involve the President himself, although he did not know this for a fact. He told Kalmbach that Haldeman, Ehrlichman and Mitchell felt it very important that he raise the money and instructed Kalmbach to contact LaRue as to the amounts needed and the timing.<sup>67</sup>

Kalmbach confirmed that he met with Dean on June 29 and was asked by Dean to assume the fundraising assignment.<sup>68</sup> He said Dean stressed that the assignment required absolute secrecy and indicated that, if it became known, it might jeopardize the campaign.<sup>69</sup> Kalmbach said that, in giving him this assignment, Dean indicated he spoke for others, not only for himself. He said that, although Dean did not use Haldeman's or Ehrlichman's name, he knew Dean reported to Ehrlichman and worked for Haldeman.<sup>70</sup> And, since Dean was Counsel to the President, Kalmbach believed Dean had authority to ask him to undertake this task.<sup>71</sup>

Stans testified he met with Kalmbach on June 29 and gave him \$75,000, after being informed that the money was needed for a special White House project. Stans said that Kalmbach stated he was asking for the money on "high authority."<sup>72</sup> According to both Kalmbach's and Stans' testimony, Kalmbach did not inform Stans how the money would be used.<sup>73</sup>

Kalmbach distributed the money through Tony Ulasewicz, who had been hired originally by John Ehrlichman for White House assignments.<sup>74</sup> Ulasewicz was unable to deliver the money to either Douglas Caddy or Paul O'Brien, the first two contacts Kalmbach suggested, because of their reluctance to receive funds under the conditions set by Ulasewicz.<sup>75</sup> The third contact, William Bittman, Hunt's attorney, after an initial rejection, agreed to accept \$25,000 in cash in a brown envelope placed on a ledge in a telephone booth in his law office building. Ulasewicz wanted to deliver the full amount received from Stans (\$75,000) but Bittman only wanted his initial fee of \$25,000.<sup>76</sup>

The delivery of these funds was typical of the procedure Ulasewicz used on future occasions. He placed the envelope containing the \$25,000 in the telephone booth and called Bittman to retrieve it. Bittman described the color of the suit he was wearing; Ulasewicz hid and watched until Bittman came out of the elevator, went to the booth,

<sup>64</sup> Edited Presidential Conversations, p. 494.

<sup>65</sup> 3 *Hearings* 950.

<sup>66</sup> 5 *Hearings* 2097-98.

<sup>67</sup> 3 *Hearings* 950.

<sup>68</sup> 5 *Hearings* 2098.

<sup>69</sup> 5 *Hearings* 2164.

<sup>70</sup> 5 *Hearings* 2099.

<sup>71</sup> 5 *Hearings* 2100.

<sup>72</sup> 2 *Hearings* 702-3.

<sup>73</sup> 2 *Hearings* 703; 5 *Hearings* 2100.

<sup>74</sup> 1 *Hearings* 288.

<sup>75</sup> 5 *Hearings* 2103-4.

<sup>76</sup> 6 *Hearings* 2225.

took the envelope and went back into the elevator. Ulasewicz then left the building.<sup>77</sup>

After making this delivery to Bittman, Ulasewicz received a call from Kalmbach at another telephone booth. Kalmbach gave Ulasewicz a telephone number and told him to contact the "writer" or the "writer's wife," code names for Hunt and Mrs. Hunt. Ulasewicz, using his alias "Mr. Rivers," called Mrs. Hunt. He asked her what sums of money would be needed for the various defendants. Mrs. Hunt gave Ulasewicz figures for a 5-month period that covered salaries for Hunt, McCord, and Liddy (\$3,000 a month for each), family support for Barker, Sturgis, Gonzales, and Martinez (totaling about \$14,000) and a separate \$23,000 to Barker which included "\$10,000 bail, \$10,000 under the table and \$3,000 for other expenses."<sup>78</sup> Mrs. Hunt also told Ulasewicz what would be required for legal fees. The lawyers for Hunt, McCord, Liddy and Barker were each to receive \$25,000; an additional \$10,000 in legal fees for each of the remaining three defendants, Sturgis, Gonzales and Martinez, was also required. These were only the initial requirements. The total sum Mrs. Hunt was requesting was in the vicinity of \$400,000-\$450,000.<sup>79</sup> This, of course, was very much above the \$75,000 Ulasewicz had received from Kalmbach. Ulasewicz kept Kalmbach informed respecting his discussions with Mrs. Hunt.

Ulasewicz arranged with Mrs. Hunt the supply of \$40,000 as a "down payment."<sup>80</sup> Ulasewicz placed the \$40,000 for Mrs. Hunt in a locker at National Airport in Washington and telephoned her instructions to pick up the key to the locker which would be scotch-taped under the ledge in a telephone booth at the airport. The key was placed exactly 5 minutes before Mrs. Hunt arrived to retrieve it. Again Ulasewicz assumed a position where he could observe the telephone booth unseen. He saw Mrs. Hunt (whose clothing was known to him) go to the telephone booth, retrieve the key, open the locker and remove the money.<sup>81</sup>

Kalmbach came to Washington on July 19 to meet with Dean and LaRue and receive an additional amount of money from LaRue.<sup>82</sup> According to Kalmbach the amount was \$40,000; LaRue, however, estimated \$20,000.<sup>83</sup> This money came from the \$81,000 which Sloan and Stans had removed from Stans' safe and given to LaRue.<sup>84</sup> Kalmbach testified that he took the \$40,000 to New York and gave it to Ulasewicz.<sup>85</sup>

After the July 19 meeting, Kalmbach became concerned over the clandestine nature of the funding operations, which he found distasteful. Dean, at that meeting, had asked Kalmbach to raise additional funds for the Watergate defendants and Kalmbach had determined to talk to Ehrlichman about it.<sup>86</sup> He wanted Ehrlichman's assurances as to the propriety of the assignment. Until that time he had distributed funds given him by Stans or LaRue. Now he was being asked to seek an outside contributor.<sup>87</sup>

<sup>77</sup> 6 *Hearings* 2226-27.

<sup>78</sup> 6 *Hearings* 2234-35.

<sup>79</sup> 6 *Hearings* 2236.

<sup>80</sup> *Ibid.*

<sup>81</sup> 6 *Hearings* 2227-31.

<sup>82</sup> 5 *Hearings* 2104.

<sup>83</sup> 5 *Hearings* 2104; 6 *Hearings* 2291.

<sup>84</sup> 2 *Hearings* 546-48.

<sup>85</sup> 5 *Hearings* 2105.

<sup>86</sup> 5 *Hearings* 2105.

<sup>87</sup> 5 *Hearings* 2105-6.

On July 26, Kalmbach travelled to Washington and met with Ehrlichman. He found Ehrlichman familiar with the fundraising assignment he had received from Dean. He explained to Ehrlichman that the secrecy of the operation and the various activities connected with it disturbed him. Kalmbach said he remembered vividly the meeting with Ehrlichman because:

I looked at him and I said, "John, I am looking right into your eyes. I know Jeanne and your family, you know Barbara and my family. You know that my family and my reputation mean everything to me and it is just absolutely necessary, John, that you tell me, first that John Dean has the authority to direct me in this assignment, and that I am to go forward on it."<sup>88</sup>

Kalmbach said Ehrlichman declared, "Herb, John Dean does have the authority, it is proper, and you are to go forward."<sup>89</sup> Ehrlichman also emphasized the need for the secrecy, stating that if the press were to learn of these activities, "they would have our heads in their laps."<sup>90</sup> This satisfied Kalmbach. He left the meeting and later obtained an additional \$30,000 from LaRue which he transmitted to Ulasewicz.<sup>91</sup> Ehrlichman denied that he reassured Kalmbach but did recall a conversation where secrecy was discussed, and that Kalmbach told him "Mr. Ulasewicz was carrying money back and forth."<sup>92</sup>

Kalmbach said he returned to California and raised an additional \$75,000 in cash from a private contributor, Thomas V. Jones, chairman of Northrop Corp. Mr. Jones did not know the intended use of the money, and apparently believed he was making a campaign contribution to the President. Kalmbach notified Ulasewicz to come to California and meet him in front of the Airporter Inn near Kalmbach's office in Newport Beach. Kalmbach picked Ulasewicz up in his car, they drove a distance, parked, and Kalmbach gave the cash to Ulasewicz.<sup>93</sup> Ulasewicz told the committee that, while in California, he warned Kalmbach that "something here is not Kosher," that "... it's definitely not your ball game, Mr. Kalmbach." He told Kalmbach that, because of the increasing size of the money demands and other surrounding circumstances, it was time for both of them to get out of the project.<sup>94</sup>

Kalmbach testified that in mid-August Dean and LaRue contacted him again seeking additional funds. He decided, however, that he would not participate further in this assignment.<sup>95</sup> Kalmbach told the committee that one factor that disturbed him and led him to quit was the newspaper stories about Watergate appearing in the press.<sup>96</sup>

On September 19, at LaRue's urgent request, Ulasewicz flew to Washington from New York and delivered the remaining funds Kalmbach had given him—\$53,000 to Mrs. Hunt, \$29,000 to LaRue. This terminated Ulasewicz's and Kalmbach's activities respecting the funding of the Watergate defendants.<sup>97</sup>

<sup>88</sup> 5 *Hearings* 2106.

<sup>89</sup> *Ibid.*

<sup>90</sup> 5 *Hearings* 2107.

<sup>91</sup> 5 *Hearings* 2108.

<sup>92</sup> 6 *Hearings* 2571-72.

<sup>93</sup> 5 *Hearings* 2108-9.

<sup>94</sup> 6 *Hearings* 2237.

<sup>95</sup> 5 *Hearings* 2110.

<sup>96</sup> *Ibid.*

<sup>97</sup> 6 *Hearings* 2237-38.

Kalmbach testified that, after these funds were delivered by Ulasewicz to Mrs. Hunt and LaRue, he arranged a meeting with Dean and LaRue in Dean's office to reconcile with LaRue the amount of money distributed in the operation. He testified that the total amount received by him and disbursed through Ulasewicz was approximately \$220,000. As soon as he had made the reconciliation with LaRue, Kalmbach destroyed his notes by shredding and burning them in Dean's office.<sup>98</sup>

LaRue took over the raising of funds and their distribution to the Watergate defendants. His contact became William Bittman, Hunt's attorney.<sup>99</sup> However, because of the rising demands for money, it was soon necessary for LaRue to find additional funds.

### 3. THE HUNT TO COLSON TELEPHONE CALL

In late November 1972, Hunt called Colson to complain about the failure of the White House and CRP to meet their monetary commitments. Colson recorded the conversation and a copy of its transcript is entered in the record as exhibit No. 152.<sup>1</sup> In this call, Hunt, among other things, stated:

... [T]here is a great deal of unease and concern on the part of 7 defendants ... But there is a great deal of financial expense that has not been covered and what we have been getting has been coming in very minor gibbs and drabs and Parkinson, who has been the go-between with my attorney, doesn't seem to be very effective and we are now reaching a point of which ...

\* \* \* \* \*

These people have really got to ... this is a long haul thing and the stakes are very high and *I thought that you would want to know that this thing must not break apart for foolish reasons ...*

\* \* \* \* \*

All right, now we've set a deadline now for close of business on the 25th of November for the resolution on the liquidation of everything that is outstanding ...

\* \* \* \* \*

... [W]e're protecting guys who are really responsible, but now that's that ... and of course that's a continuing requirement, but at the same time, this is a two-way street and as I said before, we think that now is the time when a move should be made and *surely the cheapest commodity available is money*. These lawyers have not been paid, there are large sums of money outstanding. That's the principal thing. Living allowances which are due again on the 31st of this month, we want that stuff well in hand for some months in advance. I think these are all reasonable requests. They're all promised in advance and reaffirmed from time to time to my attorney and so forth, so in turn I've been giving commitments to the people who look to me. ... [Emphasis added.]

<sup>98</sup> 5 Hearings 211; see also 6 Hearings 2293.

<sup>99</sup> 6 Hearings 2293.

<sup>10</sup> 9 Hearings 3888-91.

Colson gave a copy of the tape recording to Dean. On November 15, Dean, Ehrlichman and Haldeman met at Camp David to discuss the conversation and the increasing, threatening demands transmitted through Hunt's lawyer to Paul O'Brien. Dean testified that his instructions from Haldeman and Ehrlichman were to meet with Mitchell, play the tape, and tell him to take care of these problems.<sup>2</sup> Dean went to New York, played the tape for Mitchell, but received no indication from Mitchell that he would take any action.

#### 4. THE \$350,000 WHITE HOUSE FUND

Prior to April 7, 1972, \$350,000 in cash previously kept in Sloan's safe at CRP had been sent to the White House at Haldeman's request, purportedly for polling purposes.<sup>3</sup> Strachan had received the money in Sloan's office and had taken it to the White House. Haldeman had arranged for a person he trusted, not identified with the White House, to keep the funds in a private bank account.<sup>4</sup>

According to Dean's testimony: In the first week of December, Mitchell called Dean and told him that a portion of this \$350,000 must be used to meet the demands by Hunt and others. Mitchell indicated that the money used would be later replaced. Mitchell asked Dean to obtain Haldeman's approval for this action. Dean conveyed Mitchell's message to Haldeman. Although both Dean and Haldeman were reluctant to use this money, they had no alternative. Haldeman authorized Dean to inform Strachan to deliver the money to CRP.<sup>5</sup>

Strachan testified that, at first, he delivered only \$40,000 of the \$350,000 to LaRue.<sup>6</sup> Haldeman confirmed this delivery when, in an April 14, 1973, meeting with the President, he stated, "then they got desperate for money, and being desperate for money took back—I think that it was \$40,000."<sup>7</sup> But this delivery, Dean testified, did not satisfy the demands that "continued to be relayed by Mr. Bittman to Mr. O'Brien who, in turn, would relay them to Mr. Mitchell, Mr. LaRue, and myself. I, in turn, would tell Haldeman and Ehrlichman of the demands."<sup>8</sup>

Dean testified that the demands reached the crescendo point shortly before the trial in early January. He said that O'Brien and LaRue came to his office and told him of the seriousness of the problem. Also, he said, Mitchell called him to instruct that once again he should ask Haldeman for the necessary funds. Dean said he called Haldeman told him of Mitchell's request and recommended that they deliver the entire balance of the \$350,000 to LaRue. Haldeman acquiesced, according to Dean, and said "send the entire damn bundle to them but make sure we get a receipt for \$350,000." Dean testified he called Strachan and told him to take the money to LaRue.<sup>9</sup>

In a meeting on April 14, 1973, Haldeman told the President that he had given the balance of the \$350,000 to LaRue because "... they needed money, and we wanted to get rid of money, it seemed it was of mutual interest in working it out."<sup>10</sup> In an April 16, 1973, meeting Haldeman

<sup>2</sup> 3 *Hearings* 969-70.

<sup>3</sup> 6 *Hearings* 2442, 2461.

<sup>4</sup> 7 *Hearings* 2879.

<sup>5</sup> 3 *Hearings* 970-71; 7 *Hearings* 2879.

<sup>6</sup> 6 *Hearings* 2463.

<sup>7</sup> Edited Presidential Conversations, p. 531.

<sup>8</sup> 3 *Hearings* 971.

<sup>9</sup> *Ibid.*

<sup>10</sup> Edited Presidential Conversations, p. 531.

told the President that his participation in payments to the defendants" [i]n my viewpoint . . . wasn't to shut them up, but that is a hard case for anybody to believe, I suppose."<sup>11</sup>

##### 5. ADDITIONAL PRESSURES BY HUNT

Severe pressure from Hunt for additional funds came after the Watergate trial and prior to his sentence.<sup>12</sup> Hunt testified that he requested his attorney, Mr. Bittman, to arrange a meeting between Hunt and O'Brien.<sup>13</sup> Hunt told O'Brien when they met that his legal fees amounted to approximately \$60,000, and that he was also concerned about the future of his family and desired to have the equivalent of 2 years' subsistence available to them before his incarceration. Although Hunt testified he did not intend any threat, he told the committee:

And I put it to Mr. O'Brien that I had engaged as he might or might not know, in other activities, which I believed I described as seamy activities, for the White House. I do not believe that I specified them. However, I did make reference to them. The context of such references was that if anyone was to receive benefits at that time, in view of my long and loyal service, if not hazardous service, for the White House that certainly I should receive priority consideration.<sup>14</sup>

Hunt said O'Brien suggested that he send a memorandum to Colson. Hunt did not want to write a memorandum but thought he should contact Colson to explain his situation to him.<sup>15</sup>

Bittman contacted Colson's office and arranged for Colson's law partner, David Shapiro, to meet him on February 16, 1973. Hunt testified he told Shapiro substantially the same things he told O'Brien, including a reference to his "seamy activities" for the White House. Hunt was very disappointed with the meeting since Shapiro did not appear sympathetic. Hunt said he made it clear to Shapiro that he wanted the money prior to the date of his sentence so he could make "prudent distribution of that among the members of my family, my dependents, taking care of insurance premiums and that sort of thing, that it would have to be delivered to me before I was in jail." Hunt testified that on March 20 or 21, just prior to his sentence, he received \$75,000 in cash.<sup>16</sup> LaRue admitted making the payment to Hunt after approval from Mitchell.<sup>17</sup>

##### 6. THE MARCH 21 MEETING IN THE OVAL OFFICE

The indictment returned against Haldeman, Ehrlichman, Colson, Mitchell, Strachan, Mardian and Parkinson alleges that the final payment to Hunt by LaRue was made on March 21, 1973, (not March 20) shortly after Dean, Haldeman and the President discussed Hunt's

<sup>11</sup> *Id.* at p. 833.

<sup>12</sup> This pressure for money and how to handle it was one of the topics discussed at the February 1974 La Costa meeting attended by Haldeman, Ehrlichman, Dean and Richard Moore. This meeting is discussed in detail at pp. 76-78 of this report.

<sup>13</sup> 9 *Hearings* 3703.

<sup>14</sup> 9 *Hearings* 3704.

<sup>15</sup> 9 *Hearings* 3705.

<sup>16</sup> 9 *Hearings* 3706.

<sup>17</sup> 6 *Hearings* 2297-98, 2321. In all, LaRue testified he distributed around \$210,000 to Mr. Hunt's attorney, Mr. Bittman (6 *Hearings* 2293-97). He also transmitted \$20,000 to Mr. Liddy's attorney (6 *Hearings* 2296). The various sources of the funds LaRue distributed are discussed at 6 *Hearings* 2333-34.

demands for money. According to the edited presidential transcripts, it now appears that the conversation Dean testified he had with the President on March 13, 1973, concerning Hunt's demand actually occurred on the morning of March 21, although in his testimony before the committee Dean insisted that he correctly placed this conversation on March 13.<sup>18</sup> In this conversation, Dean said, he told the President:

"... that there were money demands being made by the seven convicted defendants, and that the sentencing of these individuals was not far off. It was during this conversation that Haldeman came into the office. After this brief interruption by Haldeman's coming in, but while he was still there I told the President about the fact that there was no money to pay these individuals to meet their demands. He asked me how much it would cost. I told him that I could only make an estimate that it might be as high as \$1 million or more. He told me that that was no problem, and he also looked over at Haldeman and repeated the same statement. He then asked me who was demanding the money and I told him it was principally coming from Hunt through his attorney . . .

The conversation then turned back to the question from the President regarding the money that was being paid to the defendants. He asked me how this was done. I told him I didn't know much about it other than the fact that the money was laundered so it could not be traced and then there were secret deliveries. I told him I was learning about things I had never known before, but the next time I would certainly be more knowledgeable . . ." <sup>19</sup>

Dean also testified that money matters were discussed during his morning meeting with the President on March 21.<sup>20</sup>

The edited transcript of the March 21 meeting demonstrates that Dean's recollection as set forth in his testimony of his principal meeting with the President concerning the hush money demands from the Watergate defendants was in a large part accurate.

The following portions of the edited transcript supplied by the President are particularly illustrative:

D. So that is it. That is the extent of the knowledge. So where are the soft spots on this? Well, first of all, there is the problem of the continued blackmail which will not only go on now, but it will go on while these people are in prison, and it will compound the obstruction of justice situation. It will cost money. It is dangerous. People around here are not pros at this sort of thing. This is the sort of thing Mafia people can do: washing money, getting clean money, and things like that. We just don't know about those things, because we are not criminals and not used to dealing in that business.

P. That's right.

D. It is a tough thing to know how to do.

P. Maybe it takes a gang to do that.

<sup>18</sup> 4 *Hearings* 1567.

<sup>19</sup> 3 *Hearings* 995-96.

<sup>20</sup> 3 *Hearings* 998-1000.



D. That's right. There is a real problem as to whether we could even do it. Plus there is a real problem in raising money. Mitchell has been working on raising some money. He is one of the ones with the most to lose. But there is no denying the fact that the White House, in Ehrlichman, Haldeman and Dean are involved in some of the early money decisions.

P. How much money do you need?

D. I would say these people are going to cost a million dollars over the next two years.

P. We could get that. On the money, if you need the money you could get that. You could get a million dollars. You could get it in cash. I know where it could be gotten. It is not easy, but it could be done. But the question is who the hell would handle it? Any ideas on that?

D. That's right. Well, I think that is something that Mitchell ought to be charged with.

P. I would think so too. [pp. 193-94]

\* \* \* \* \*

P. What do you think? You don't need a million right away, but you need a million? Is that right?

D. That is right.

P. You need it in cash don't you? I am just thinking out loud here for a moment. Would you put that through the Cuban Committee?

D. No.

P. It is going to be checks, cash money, etc. How if that ever comes out, are you going to handle it? Is the Cuban Committee an obstruction of justice, if they want to help?

D. Well they have priests in it.

P. Would that give a little bit of a cover?

D. That would give some for the Cubans and possibly Hunt. Then you've got Liddy. McCord is not accepting any money. So he is not a bought man right now.

P. OK. Go ahead. [pp. 194-95]

\* \* \* \* \*

P. Just looking at the immediate problem, don't you think you have to handle Hunt's financial situation damn soon?

D. I think that is—I talked to Mitchell about that last night and—

P. It seems to me we have to keep the cap on the bottle that much, or we don't have any options.

D. That's right.

P. Either that or it all blows right now? [pp.196-97]

\* \* \* \* \*

P. . . . Talking about your obstruction of justice, though, I don't see it.

D. Well, I have been a conduit for information on taking care of people out there who are guilty of crimes.

P. Oh, you mean like the blackmailers?

D. The blackmailers. Right.

P. Well, I wonder if that part of it can't be—I wonder if that doesn't—let me put it frankly: I wonder if that doesn't have to be continued? Let me put it this way: let us suppose that you get the million bucks, and you get the proper way to handle it. You could hold that side?

D. Uh, huh.

P. It would seem to me that would be worthwhile. [p. 206]

\* \* \* \*

P. Another way to do it then Bob, and John realizes this, is to continue to try to cut our losses. Now we have to take a look at that course of action. First it is going to require approximately a million dollars to take care of the jackasses who are in jail. That can be arranged. That could be arranged. But you realize that after we are gone, and assuming we can expend this money, then they are going to crack and it would be an unseemly story. Frankly, all the people aren't going to care that much. [pp. 225-26]

\* \* \* \*

D. They're going to stonewall it, as it now stands. Excepting Hunt. That's why his threat.

H. It's Hunt's opportunity.

P. That's why for your immediate things you have no choice but to come up with the \$120,000, or whatever it is. Right?

D. That's right.

P. Would you agree that that's the prime thing that you damn well better get that done?

D. Obviously he ought to be given some signal anyway.

P. (*Expletive deleted*) get it. In a way that—who is going to talk to him? Colson? He is the one who is supposed to know him? [Emphasis added.] [pp. 236-37]

At this meeting and at the afternoon meeting on March 21, other alternatives to paying hush money were considered including certain public disclosures. During the afternoon meeting, with regard to public disclosures, the participants perceived no viable "option" which would not precipitate revelation of the coverup. At the close of the afternoon March 21 meeting, the President, telling Dean, Haldeman and Ehrlichman he had to leave, concluded with an unanswered question:

P. What the hell does one disclose that isn't going to blow something? [p. 269]

#### 7. OTHER RELEVANT PRESIDENTIAL MEETINGS CONCERNING PAYOFFS

The following morning, on March 22, 1973, Dean met with Haldeman, Ehrlichman and Mitchell in Haldeman's office. At the beginning of this meeting, Dean said, Ehrlichman asked Mitchell whether Hunt's money problem had been resolved. Dean said Mitchell replied he didn't think it was a problem.<sup>21</sup> Mitchell denied this discussion took place.<sup>22</sup> Ehrlichman recalls a conversation on March 22 when Dean

<sup>21</sup> 3 *Hearings* 1001.

<sup>22</sup> 4 *Hearings* 1650.

(not Ehrlichman) asked Mitchell, without specific reference to Hunt, "is that matter taken care of?" Mitchell's answer, Ehrlichman says, was something like "I guess so."<sup>23</sup>

Dean's version is supported by the edited Presidential transcripts. The transcripts show that, in a meeting between the President and Dean in the Oval Office on April 16, 1973, Dean recalled that a few days after the March 21 meeting he met with Haldeman, Ehrlichman and Mitchell. Dean said Ehrlichman asked him: "Well, is that problem with Hunt straightened out?" Dean said he told Ehrlichman to ask Mitchell who, in turn, replied, "I think the problem is solved." The conversation between the President and Dean continued:

P. That's all?

D. That's all he said.

P. In other words, that was done at the Mitchell level?

D. That's right.

P. But you had knowledge; Haldeman had knowledge; Ehrlichman had knowledge and I suppose I did that night. That assumes culpability on that, doesn't it? [p. 798]

Also relevant is an April 17, 1973, conversation among the President, Haldeman and Ehrlichman:

P. Well (inaudible). I suppose then we should have cut— shut it off, 'cause later on you met in your office and Mitchell said, "*That was taken care of.*"

H. The next day. Maybe I can find the date by that—

P. Yeah. And Dean was there and said, "What about this money for Hunt?" Wasn't Dean there?

H. No, what happened was—Ehrlichman and Dean and Mitchell and I were in the office, in my office, and we were discussing other matters. And in the process of it, Mitchell said—he turned to Dean and said, "Let me raise another point. Ah, have you taken care of the other problem—the Hunt problem?" *But we all knew instantly what he meant.* Dean kind of looked a little flustered and said, "Well, well, no. I don't know where that is or something," and Mitchell said, "Well I guess it's taken care of." And so we assumed from that that Mitchell had taken care of it, and there was no further squeak out of it so I now assume that Mitchell took care of it. [Emphasis added.] [pp. 1035–36]

Just prior to the above exchange, the President recalled his discussion with Dean on March 21 about the possibility that it might require \$1 million to meet the blackmail demands from Watergate defendants. Haldeman (inaccurately) recalled to the President that he (the President) had told Dean, "Once you start down the path with blackmail it's constant escalation." Then Haldeman said: "They could jump and then say, 'Yes, well that was morally wrong. What you should have said is that blackmail is wrong not that it's too costly.'" <sup>24</sup> At the same meeting, the following colloquy took place between the President and Haldeman:

<sup>23</sup> 7 Hearings 2853.

<sup>24</sup> Edited Presidential Conversations, p. 1034.

H. We left it—that we can't do anything about it anyway. We don't have any money, and it isn't a question to be directed here. This is something relates to Mitchell's problem. Ehrlichman has no problem with this thing with Hunt. And Ehrlichman said, (expletive removed) "if you're going to get into blackmail, to hell with it."

P. Good (unintelligible) Thank God you were in there when it happened. But you remember the conversation?

H. Yes, sir.

P. I didn't tell him to go get the money did I?

H. No. [pp. 1032-33]

Some of the participants involved in the payments to defendants (Haldeman, Ehrlichman, Kalmbach) told the committee that payments were authorized, not to buy the silence of the defendants, but solely to create a defense fund for the Watergate burglars, a fund which they said they believed was legitimate.<sup>25</sup> And in an April 14, 1973, meeting between the President and Haldeman, the following colloquy took place:

H. That was the line they used around here. That we've got to have money for their legal fees and family.

P. Support. Well, I heard something about that at a much later time.

\* \* \* \* \*

P. And, frankly, not knowing much about obstruction of justice, I thought it was perfectly proper.

\* \* \* \* \*

P. Would it be perfectly proper?

E. The defense of the——

P. Berrigans?

E. The Chicago Seven.

P. The Chicago Seven?

H. They have a defense fund for everybody. [p. 431; *see also* p. 833]

This evidence must be considered in light of the contrary evidence presented above. As indicated, none of those who authorized or participated in the making of the payments to the Watergate defendants used their own money; to the contrary they used campaign funds contributed by others who had no knowledge that their money was being employed to pay the legal fees of the Watergate defendants and to support their families. Also relevant is the clandestine nature of the payoffs which were made with \$100 bills and placed in "drops" by an unseen intermediary using a code name. Even the President recognized that the payoffs smacked of coverup. In an April 27 meeting with Henry Petersen, the secret payments of money to the Watergate defendants were discussed:

HP. . . . Once you do it in a clandestine fashion, it takes on the elements—

P. Elements of a coverup.

HP. That's right, and obstruction of justice. [Edited Presidential Conversations, p. 1281.]

<sup>25</sup> 5 *Hearings* 2092, 2165; 6 *Hearings* 2568, 2570-72; 7 *Hearings* 2879.

## L. REPRESENTATIONS CONCERNING EXECUTIVE CLEMENCY

Only the President of the United States can grant Executive clemency in a matter involving a Federal crime. The evidence reveals that, during the latter part of 1972 and in early January 1973 prior to the first Watergate trial, promises of Executive clemency were made to certain Watergate defendants in a further effort to maintain their silence. These promises of Executive clemency were made with the representation that they were authorized by high officials close to the President.<sup>26</sup>

Ehrlichman testified that he discussed Executive clemency with the President as early as July 1972. According to Ehrlichman, the President did not even want members of the White House staff to discuss clemency with anyone involved in the case, much less to offer it.<sup>27</sup> The President, in a statement on August 15, 1973, confirmed Ehrlichman's statement that he told Ehrlichman in July that under no circumstances could Executive clemency be considered for participants in the Watergate affair.

### 1. REPRESENTATIONS TO JAMES McCORD

McCord testified that, in late September or early October 1972, Gerald Alch, his attorney, met with William Bittman who represented Hunt. After this meeting, McCord said, Alch told McCord that Executive clemency, financial support and rehabilitation would be made available to the Watergate defendants.

Alch denied in his testimony before the committee that he transmitted these assurances of Executive clemency to McCord. To the contrary, he testified he told McCord: "Jim, it can be Christmas, Easter, and Thanksgiving all rolled into one, but in my opinion, the President would not touch this with a 10-foot pole, so do not rely on any prospect of Executive clemency."<sup>28</sup> McCord testified Hunt also told him that Executive clemency would be granted and "spoke in terms as though it had already been committed."<sup>29</sup> McCord said these assurances from Hunt were made in late September or October while Hunt and McCord were at the courthouse.<sup>30</sup>

McCord stated that discussions involving Executive clemency also occurred with Hunt's wife, and that, from September to December, Mrs. Hunt pressured McCord to remain silent and accept the proposal for Executive clemency, which he declined. McCord was told that similar proposals were made to Barker, Gonzales, Martinez, Sturgis and Liddy.<sup>31</sup>

More direct promises of Executive clemency came to McCord after he sent an anonymous letter on December 31 to Jack Caulfield, which dramatically warned that: "If Helms goes and if the Watergate operation is laid at the CIA's feet, where it does not belong, every tree in the forest will fall. It will be a scorched desert. The whole matter is

<sup>26</sup> The Federal indictment issued on March 1, 1974, relating to the coverup of the Watergate affair alleges that, as part of a conspiracy to obstruct justice, offers of Executive clemency were made to McCord, Hunt, Magruder, and Liddy. (See indictment p. 7.)

<sup>27</sup> 6 Hearings 2608.

<sup>28</sup> 1 Hearings 303.

<sup>29</sup> 1 Hearings 150.

<sup>30</sup> 1 Hearings 131.

<sup>31</sup> McCord DNC deposition, May 1, 1973, pp. 301-2. On March 21, Dean told the President that "You are going to have a clemency problem with the others." (Edited Presidential Conversations, p. 205.)

at the precipice now. Just pass the message that if they want it to blow, they are on exactly the right course. I am sorry that you will get hurt in the fall-out."<sup>32</sup> McCord had become increasingly alarmed over what he considered efforts by his attorney and persons at CRP and the White House to have him falsely assert, as a defense to the criminal charges against him, that the break-in was part of a CIA mission.<sup>33</sup>

Caulfield, who believed the letter came from McCord, immediately telephoned its contents to Dean's assistant, Fred Fielding, and later gave the letter to Dean. Dean discussed the problem with Paul O'Brien. O'Brien reported the matter to Mitchell who directed O'Brien to have Caulfield determine McCord's intentions.<sup>34</sup> On January 8, 1973, Dean asked O'Brien to communicate to McCord's lawyer that a friend of McCord's would contact McCord, which O'Brien did. O'Brien also told Hunt's lawyer, Bittman, about the conversation with Dean.<sup>35</sup> Later that day, McCord and Alch visited Bittman's office and, after Alch met with Bittman alone, Alch told McCord that he would receive a call that evening from a White House "friend."<sup>36</sup>

The initial contact with McCord was made by Caulfield through Tony Ulasewicz, who telephoned McCord in the early morning hours of January 9, 1973, and told him to go to a nearby phone booth to receive a message. McCord complied and heard a voice, unfamiliar to him, say:

"Plead guilty. One year is a long time. You will get Executive clemency. Your family will be taken care of and when you get out, you will be rehabilitated and a job will be found for you. Don't take immunity when called before the grand jury."<sup>37</sup>

After delivering the message, Ulasewicz reported McCord's apparent satisfaction to Caulfield.<sup>38</sup>

In the meantime, according to Dean, O'Brien and Mitchell both contacted Dean and told him that, since Hunt had received an assurance of Executive clemency (as discussed below), McCord and the others were similarly entitled. Mitchell and O'Brien felt Caulfield could most effectively carry that message to McCord.<sup>39</sup> Dean testified that he called Caulfield, told him to see McCord in person, and gave him a clemency message for McCord similar to the one transmitted to Hunt through Bittman.<sup>40</sup> Mitchell's testimony before the committee indicated he knew in January 1973 that Dean asked Caulfield to talk to McCord to ascertain McCord's plans, but Mitchell does not remember contemporaneously learning that Caulfield had offered McCord clemency.<sup>41</sup>

Caulfield arranged a meeting with McCord on the George Washington Parkway in Virginia (the first of several) through another telephone call from Ulasewicz to McCord at the telephone booth near

<sup>32</sup> 3 *Hearings* 1235.

<sup>33</sup> 1 *Hearings* 193.

<sup>34</sup> 3 *Hearings* 974.

<sup>35</sup> O'Brien interview, May 31, 1973, p. 5.

<sup>36</sup> 1 *Hearings* 135, 150.

<sup>37</sup> 1 *Hearings* 135.

<sup>38</sup> 1 *Hearings* 254-55.

<sup>39</sup> 3 *Hearings* 975.

<sup>40</sup> 3 *Hearings* 975.

<sup>41</sup> 4 *Hearings* 1632.

McCord's home. This meeting took place on January 12.<sup>42</sup> McCord testified that Caulfield then urged him to plead guilty, receive clemency and be rehabilitated afterward. According to McCord, Caulfield said that he carried the clemency message "from the very highest levels of the White House."<sup>43</sup> McCord said he was told by Caulfield that the President would be apprised of the meeting and that Caulfield said "I may have a message to you at our next meeting from the President himself."<sup>44</sup>

Caulfield testified that, on January 13, Dean advised him to stress to McCord the sincerity of the clemency offer. When Caulfield asked if the offer came from the President, Dean replied it came "from the top." Caulfield said that he assumed this implied Ehrlichman speaking for the President, because Dean rarely made decisions without Ehrlichman's input. Caulfield, however, never had personal discussions with the President on this matter and had no personal knowledge that the President authorized a clemency offer to McCord.<sup>45</sup>

On January 14 Caulfield again met with McCord on the George Washington Parkway and told McCord that his efforts to develop, as a defense to the criminal charges against him, his claims of Government wiretaps of certain phone calls he had made to foreign embassies would not be successful. McCord became very concerned and was assured that he would receive clemency after 10 or 11 months' imprisonment. Caulfield on this occasion told McCord:

The President's ability to govern is at stake. Another Teapot Dome scandal is possible and the Government may fall. Everybody else is on track but you, you are not following the game plan, get closer to your attorney.<sup>46</sup>

There followed two telephone conversations on January 15 and January 16, during which McCord indicated to Caulfield that he had no desire to talk to him further and suggested that, if the White House wanted to be honest, it should look into McCord's perjury charges against Magruder and his claims as to the tapping of his two embassy calls.<sup>47</sup> However, a final meeting was arranged between McCord and Caulfield on the George Washington Parkway for January 25. McCord testified that, at this meeting, Caulfield repeated the offers of clemency, financial support and rehabilitation. According to McCord, Caulfield discouraged his hopes for White House action on his wiretap defense and cautioned him that, if he made public allegations against high administration officials, the administration would undoubtedly defend itself. McCord interpreted this as a "personal threat" to his safety, but stated his willingness to take the risk.<sup>48</sup>

Caulfield testified that, in this final meeting, he concluded that McCord was definitely going to speak out on the Watergate burglary and would probably make allegations against White House and other high officials.<sup>49</sup> Caulfield said he told McCord, "Jim, I have worked with these people and I know them to be as tough-minded as you and I.

<sup>42</sup> 1 *Hearings* 137.

<sup>43</sup> 1 *Hearings* 138, 228.

<sup>44</sup> 1 *Hearings* 138.

<sup>45</sup> 1 *Hearings* 256-57, 266, 273-74.

<sup>46</sup> 1 *Hearings* 139-40, 152.

<sup>47</sup> 1 *Hearings* 140.

<sup>48</sup> 1 *Hearings* 140-41, 260.

<sup>49</sup> 1 *Hearings* 260.

When you make your statement, don't underestimate them. If I were in your shoes, I would probably be doing the same thing."<sup>50</sup>

## 2. REPRESENTATIONS TO HOWARD HUNT

On December 8, 1972, Hunt's wife, Dorothy, died in an airplane crash in Chicago. Three weeks later, on December 31, Hunt sent a letter to Colson that stated:

I had understood you to say that you would be willing to see my attorney, Bill Bittman, at any time. After my wife's death, I asked him to see you, but his efforts were unavailing. And though I believe I understand the delicacy of your overt position, I nevertheless feel myself even more isolated than before. My wife's death, the imminent trial, my present mental depression, and my inability to get any relief from my present situation, all contribute to a sense of abandonment by friends on whom I had in good faith relied. I can't tell you how important it is under the circumstances, for Bill Bittman to have the opportunity to meet with you, and I trust that you will do me that favor.

There is a limit to the endurance of any man trapped in a hostile situation and mine was reached on December 8. I do believe in God—not necessarily a Just God but in governance of a Divine Being. His Will, however, is often enacted through human hands, and human adversaries are arraigned against me.<sup>51</sup>

Colson sent Dean a copy of the letter with a note that asked, "Now what the hell do I do?"<sup>52</sup>

Dean testified that on January 2, 1973, Paul O'Brien called him and, with some urgency, requested that Dean meet with him concerning serious problems with Hunt. When Dean met with O'Brien that evening, O'Brien told Dean that Hunt wished to plead guilty but, before changing his plea, Hunt wanted White House assurance of Executive clemency.<sup>53</sup> On January 3, Colson called Dean to say that he did not want to meet with Bittman. Dean testified he went to Ehrlichman and told him the situation. Ehrlichman, according to Dean, asked Colson to meet with Bittman, which Colson did.<sup>54</sup>

After meeting with Bittman that same day, Colson met with Dean and Ehrlichman in Ehrlichman's office. Dean testified that Colson was upset and said it was imperative to offer Hunt Executive clemency. Dean said Ehrlichman indicated he would speak to the President about it and directed Colson not to address the President on the subject.<sup>55</sup> Ehrlichman testified that, at this meeting, he told Dean and Colson of his July 1972 conversation with the President where the President had stressed that no one in the White House was to discuss or offer clemency.<sup>56</sup>

<sup>50</sup> 1 *Hearings* 266.

<sup>51</sup> Exhibit 153, 9 *Hearings* 3892.

<sup>52</sup> 3 *Hearings* 1053.

<sup>53</sup> 3 *Hearings* 973-74.

<sup>54</sup> 3 *Hearings* 973, 1053.

<sup>55</sup> 3 *Hearings* 973, 1079.

<sup>56</sup> 6 *Hearings* 2608-9.



The next day, according to Dean, Ehrlichman confided to Dean that he had given Colson an affirmative answer regarding clemency for Hunt and that Colson had again met with Bittman. On January 5, Colson reported his second meeting with Bittman to Ehrlichman and Dean. Colson said he gave Bittman a "general assurance" respecting clemency, rather than a firm commitment, saying that although a year is a long time, clemency usually comes around Christmas.<sup>57</sup> Dean said he expressed the feeling that the other defendants would expect the same type of arrangement and that Ehrlichman said the same assurance would apply to all.<sup>58</sup> According to Dean, Colson, after the meeting, told Dean he had ignored Ehrlichman's instructions and discussed clemency with the President.<sup>59</sup>

Ehrlichman confirms that in January he met with Colson and Dean to discuss the Hunt-Bittman request for help. Ehrlichman said the main purpose of the meeting was to attempt to deal with Hunt's depressed state of mind and to determine how best to aid him. But, Ehrlichman testified, he made it clear to Colson that under no circumstances could Executive clemency be offered Hunt.<sup>60</sup> His version of the January 5 meeting was that Colson gave Dean and Ehrlichman "the strongest kinds of assurances that he had not made any sort of commitment."<sup>61</sup> However, Hunt did change his plea to guilty at the opening of the trial on January 10.<sup>62</sup>

The edited Presidential transcripts reveal that the following comments and recollections regarding clemency to Hunt were made at the March 21, 1973, meeting among the President, Haldeman and Dean, before Hunt was sentenced:

D. . . . Here is what is happening right now. What sort of brings matters to the (unintelligible). One, this is going to be a continual blackmail operation by Hunt and Liddy and the Cubans. No doubt about it. And McCord, who is another one involved. McCord has asked for nothing. McCord did ask to meet with somebody, with Jack Caulfield who is his old friend who had gotten him hired over there. And when Caulfield had him hired, he was a perfectly legitimate security man. And he wanted to talk about commutation, and things like that. *And as you know Colson has talked indirectly to Hunt about commutation.* All of these things are bad, in that they are problems, they are promises, they are commitments. They are the very sort of thing that the Senate is going to be looking most for. I don't think they can find them, frankly.

P. Pretty hard.

D. Pretty hard. Damn hard. It's all cash.

P. Pretty hard I mean as far as the witnesses are concerned.

[pp. 188-89.] [Emphasis added.]

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<sup>57</sup> 3 Hearings 973-74. Mitchell testified that, early in 1973, he learned of meetings where Executive clemency was discussed between Hunt's lawyer and Colson. (4 Hearings 1632.)

<sup>58</sup> 3 Hearings 974, 1079.

<sup>59</sup> 3 Hearings 974; 4 Hearings 1484.

<sup>60</sup> 7 Hearings 2770-71.

<sup>61</sup> 6 Hearings 2610.

<sup>62</sup> Watergate trial transcript, p. 91.

P. . . . As a matter of fact, there was a discussion with somebody about Hunt's problem on account of his wife and I said, of course commutation could be considered on the basis of his wife's death, and that is the only conversation I ever had in that light.

D. Right. [p. 192.]

\* \* \* \* \*

P. . . . You have the problem with Hunt and his clemency.

D. That's right. And you are going to have a clemency problem with the others. They all are going to expect to be out and that may put you in a position that is just untenable at some point. You know, the Watergate Hearings just over, *Hunt now demanding clemency or he is going to blow*. And politically, it's impossible for you to do it. You know, after everybody—

P. That's right!

D. I am not sure that you will ever be able to deliver on the clemency. It may be just too hot.

P. *You can't do it politically until after the '74 elections, that's for sure*. Your point is that even then you couldn't do it.

D. That's right. It may further involve you in a way you should not be involved in this.

P. No—it is wrong that's for sure. [p. 206–7.]

\* \* \* \* \*

P. . . . And the second thing is, we are not going to be able to deliver on any of a clemency thing. *You know Colson has gone around on this clemency thing with Hunt and the rest?*

D. *Hunt is now talking about being out by Christmas*.

H. This year?

D. This year. He was told by O'Brien, who is my conveyor of doom back and forth, that hell, he would be lucky if he were out a year from now, or after Ervin's hearings were over. He said how in the Lord's name could you be commuted that quickly? He said, "Well, that is my commitment from Colson."

H. By Christmas of this year?

D. Yeah.

H. See that, really, that is verbal evil. Colson is—that is your fatal flaw in Chuck. He is an operator in expediency, and he will pay at the time and where he is to accomplish whatever he is there to do. And that, and that's—I would believe that he has made that commitment if Hunt says he has. I would believe he is capable of saying that.

P. The only thing we could do with him would be to parole him like the (unintelligible) situation. But you couldn't buy clemency. [pp. 226–27.] [Emphasis added.]

Another relevant discussion occurred on April 14, 1973, when the President met with Haldeman and Ehrlichman. In a discussion of the possibility of Executive clemency the President said:

It's a shame. There could be clemency in this case and at the proper time having in mind the extraordinary sentences of Magruder, etc., etc., but you know damn well it is ridiculous to talk about clemency. They all knew that. Colson knew that. I mean when you [Ehrlichman] talked to Colson and *he talked to me*.<sup>63</sup> [Emphasis added.]

Dean met again with the President on April 15, 1973. By this time, Dean had retained counsel, gone to the U.S. Attorney's office and begun to give information about the coverup. Dean testified he was somewhat shaken when he went to the meeting because he was acting to end the coverup and knew there would be serious problems for the President.<sup>64</sup> Dean said the most interesting event of the meeting came near the very end. He said the President "got up out of his chair, went behind his chair to the corner of the Executive Office Building office and in a nearly inaudible tone said to me he was probably foolish to have discussed Hunt's clemency with Colson."<sup>65</sup> It was this conduct that led Dean to believe that this conversation was taped. As the committee learned later, there was, indeed, a taping system in operation. However, the President has informed the U.S. District Court for the District of Columbia that, unknown to the President at the time, the recorder's tape had "run out" just prior to the President's meeting with Dean and that the meeting was thus not recorded.<sup>66</sup>

Subsequently, in an April 16, 1973, meeting, the President and Dean again discussed the subject of Executive clemency for Hunt:

D. All the obstruction is technical stuff that mounts up.

P. Well, you take, for example, the clemency bit. That is solely Mitchell apparently and Colson's talk with Bittman where he says he will do everything I can because as a friend.

D. No, that was with Ehrlichman.

P. Hunt?

D. That was with Ehrlichman.

P. Ehrlichman with whom?

D. Ehrlichman and Colson and I sat up there. Colson presented his story to Ehrlichman regarding it and then John gave Chuck very clear instructions on going back and telling him. "Give him the inference he's got clemency but don't give him any commitment."

P. No commitment.

D. Right.

P. That's alright. No commitment. I have a right to say here—take a fellow like Hunt or a Cuban whose wife is sick or something and give them clemency for that purpose— isn't that right?

D. That's right.

P. But John specifically said "No commitment", did he?

D. Yes.

<sup>63</sup> Edited Presidential Conversations, p. 544.

<sup>64</sup> 3 *Hearings* 1015.

<sup>65</sup> 3 *Hearings* 1017.

<sup>66</sup> *In re: Subpenas Duces Tecum Issued to President Richard M. Nixon* (D.D.C. Misc. Nos. 47-73) transcript of proceedings, p. 21. During another April 15, 1973, meeting, before the recorder's tape "ran out," the President indicated to Ehrlichman he was aware that Hunt and Bittman could provide a link to Colson "up to his navel." [Edited Presidential Conversations, p. 672.]

P. And then Colson went on apparently to——

D. I don't know how Colson delivered it——

P. To Hunt's lawyer—isn't that your understanding?

D. Yes, but I don't know what he did or how——

P. Where did this business of the Christmas thing get out, John? What in the hell is that all about it? That must have been Mitchell, huh?

D. No, that was Chuck again.

P. That they would all be out by Christmas?

D. No, I think he said something to the effect that Christmas is the time the clemency generally occurs.

P. Oh yeah. Well, I don't think that is going to hurt him. Do you?

D. No.

P. Clemency is one thing. He is a friend of Hunt's. I am just trying to put the best face on it, but if it is the wrong thing to do I have to know. [pp. 811–12.]

### 3. REPRESENTATIONS TO JEB MAGRUDER

Dean testified that on August 16, 1972, Magruder, concerned over his upcoming grand jury appearance, asked him, "What happens if this whole thing comes tumbling down? Will I get Executive clemency and will my family be taken care of?"<sup>67</sup> Dean told Magruder that "I am sure you will," but Magruder did not consider that statement to be a firm offer of Executive clemency.<sup>68</sup>

On March 23, 1973, Chief Judge Sirica read aloud the sealed letter received from McCord. As noted, the letter charged that pressure had been exerted on the defendants to plead guilty and remain silent, that perjury had been committed during the Watergate trial and that others than those adjudged guilty had participated in the Watergate operation. McCord indicated his desire to meet with Judge Sirica and elaborate further on his assertions. He stated that he lacked confidence in the FBI, the Department of Justice, and other such "Government representatives," and thus did not want to present his information to them. McCord, however, was willing to speak to representatives of the Select Committee.

McCord's letter caused Magruder concern regarding his previous testimony.<sup>69</sup> On March 25, Magruder presented his situation to CRP lawyers and they advised him to retain counsel.<sup>70</sup> Magruder testified that the lawyers apparently transmitted his concern to Mitchell because, on March 27, Mitchell phoned Magruder and asked Magruder to meet with him in New York.<sup>71</sup> Magruder flew there that day and told Mitchell his worries. As Magruder recalled it, Mitchell assured him "he would take care of things, that everything would be taken care of." According to Magruder, "everything" included a guaranteed salary and Executive clemency.<sup>72</sup> Mitchell confirmed the meeting with Magruder, as well as Magruder's discussion of the potential perjury

<sup>67</sup> 4 *Hearings* 1444.

<sup>68</sup> *Ibid.*

<sup>69</sup> 2 *Hearings* 806.

<sup>70</sup> *Ibid.*

<sup>71</sup> 2 *Hearings* 806–7.

<sup>72</sup> 2 *Hearings* 807.

charge against him.<sup>73</sup> While Mitchell recalled offering to help Magruder "in any conceivable way," he denied promising clemency.<sup>74</sup>

Mitchell also testified that, in their March 27 meeting, Magruder requested further assurance from someone still in the White House and Mitchell suggested a meeting with Haldeman.<sup>75</sup> Magruder testified that in January, when he became concerned he might be made a scapegoat, he went to Haldeman and said, "I just want you to know that this whole Watergate situation and other activities was a concerted effort by a number of people, and so I went through a literal monologue on what had occurred."<sup>76</sup> However, Haldeman testified: "At no meeting with Magruder did he raise with me a monologue as he has described."<sup>77</sup>

Dean testified that on March 28 Haldeman called him at Camp David and asked him to return to Washington to meet with Mitchell and Magruder. Although Dean resisted, Haldeman persuaded him to participate.<sup>78</sup> Dean said his meeting with Haldeman, Mitchell, and Magruder concerned how Dean planned to testify, if called before an appropriate body, regarding the January 27 and February 4, 1972, meetings in Mitchell's office. Dean said he would not agree to help support the perjured testimony already given by Magruder in this regard.<sup>79</sup> Mitchell testified that, at the meeting, Haldeman offered to help Magruder as a friend, but made no other commitments.<sup>80</sup> Magruder recalled that Haldeman was careful to articulate that he "could make no commitments for the President."<sup>81</sup> Because of Dean's stand and the advice of CRP lawyers, Magruder decided to retain personal counsel.<sup>82</sup>

The transcript of an April 14, 1973, meeting among the President, Haldeman, and Ehrlichman indicates the President's view as to how an inference of Executive clemency could be given to Magruder in return for his claiming ultimate responsibility (along with Mitchell) for the Watergate affair:

P. I would also, though, I'd put a couple of things in and say, Jeb, let me just start here by telling you the President holds great affection for you and your family. I was just thinking last night, this poor kid——

H. Yeah, beautiful kids.

P. Lovely wife and all the rest, it just breaks your heart. And say this, this is a very painful message for me to bring—I've been asked to give you, but I must do it and it is that: Put it right out that way. Also I would put that in so he knows I have personal affection. *That's the way the so-called clemency's got to be handled.* Do you see John?

E. I understand.

H. Do the same thing with Mitchell.<sup>83</sup>

[Emphasis added.]

<sup>73</sup> 4 Hearings 1633.

<sup>74</sup> 4 Hearings 1634.

<sup>75</sup> 4 Hearings 1634.

<sup>76</sup> 2 Hearings 806.

<sup>77</sup> 7 Hearings 2887.

<sup>78</sup> 3 Hearings 1005.

<sup>79</sup> 3 Hearings 1006.

<sup>80</sup> 4 Hearings 1634.

<sup>81</sup> 2 Hearings 807.

<sup>82</sup> 2 Hearings 808.

<sup>83</sup> Edited Presidential Conversations 502–03. See also *id.* at 439, 442, 451, 459, 501, where the need to have Magruder and Mitchell present a congruent false story is discussed.

## 4. REPRESENTATIONS TO G. GORDON LIDDY

The edited Presidential transcripts contain a reference to a purported promise by Mitchell of a pardon or clemency to Liddy. The following passage is from the April 14, 1972, meeting among the President, Haldeman, and Ehrlichman:

P. He's not talking because he thinks the President doesn't want him to talk? Is that the point?

E. He's—according to them, Mitchell's given him a promise of a pardon.

P. Bittman?

E. According to Colson and Shapiro.

P. I don't know where they get that. Mitchell has promised Liddy a pardon?

E. Yes, sir. [p. 412.]

On pages 485–87, the following colloquy from the same meeting appears:

P. Colson to Bittman. I guess that's the only thing we have on that—except Mitchell, apparently had said something about clemency to people.

H. To Liddy.

P. And Mitchell has never, never—Has he ever discussed clemency with you?

E. No.

P. Has he ever discussed it with you?

H. No.

P. (Unintelligible.) We were all here in the room.

H. Well, may have said, "Look we've got to take care of this."

P. But he's never said, "Look you're going to get a pardon from these people when this is over." Never used any such language around here, has he, John?

E. Not to me.

H. I don't think so.

P. With Dean has he?

E. Well, I don't know. That's a question I can't answer.

P. Well, but Dean's never raised it. In fact, Dean told me when he talked about Hunt. I said, John, "where does it all lead?" I said, what's it going to cost. You can't just continue this way. He said, "About a million dollars." (Unintelligible) I said, John, that's the point. (Unintelligible) Unless I could get them up and say look fellows, it's too bad and I give you Executive clemency like tomorrow, what the hell do you think, Dean?

P. I mean, you think, the point is, Hunt and the Cubans are not going to sit in jail for 4 years and they are not being taken care of?

H. That's the point. Now where are you going to get the money for that?

P. That's the reason this whole thing falls apart. It's that—It's that that astonishes me about Mitchell and the rest.

E. Big problem.

[Material unrelated to Presidential actions deleted.]

P. The word never came up, but I said, "I appreciate what you're doing." I knew it was for the purpose of helping the poor bastards through the trial, but you can't offer that John. You can't—or could you? I guess you could. Attorneys' fees? Could you go a support program for these people for four years?

E. I haven't any idea. I have no idea.<sup>84</sup>

#### 5. CONSIDERATION OF CLEMENCY FOR DEAN AND MITCHELL

Comments by the President, at an April 14, 1973, meeting with Ehrlichman, indicated he considered Executive clemency for Dean and Mitchell in return for Dean's and Mitchell's cooperation in the Watergate affair:

P. . . . one point, you are going to talk to Dean?

E. I am.

P. What are you going to say to him?

E. Well to get off this passing the buck business.

P. John, that's—

E. It is a little touchy and I don't know how far I can go.

P. John, that is not going to help you. Look he [Dean] has to look down the road to one point. There is only one man who could restore him to the ability to practice law in case things go wrong. He's got to have that in the back of his mind.

E. Uh, huh.

P. He's got to know that will happen. You don't tell him, but you know and I know that with him and Mitchell there isn't going to be any damn question, because they got a bad rap.<sup>85</sup>

#### M. ACTIVITIES RELATING TO OTHER INVESTIGATIONS AND COURT PROCEEDINGS

White House and CRP officials were also concerned that other investigations besides the grand jury proceeding might uncover the true facts relating to the Watergate break-in.

##### 1. THE PATMAN HEARINGS

On August 19, 1972, Representative Wright Patman, Chairman of the House Banking and Currency Committee, ordered his committee staff to investigate the President's campaign finances, including the checks deposited in Barker's account. By early September, White House concern over the Patman Committee's investigation had mounted. Dean testified that, from the beginning of this probe, the White House had two major fears: "First, the hearings would have resulted in more adverse pre-election publicity regarding Watergate and, second, they just might stumble into something that would start unraveling the coverup."<sup>86</sup>

<sup>84</sup> See also, 3 *Hearings* 975; 7 *Hearings* 2801.

<sup>85</sup> Edited Presidential Conversations, pp. 668–69.

<sup>86</sup> 3 *Hearings* 953–59. See also, Edited Presidential Conversations, pp. 67–69, which concern the meeting of September 15, 1972, among the President, Haldeman and Dean and show substantial conversation between the President and Dean as to how to deal with the problems posed by these hearings.

According to Dean, CRP counsel Parkinson was put in touch with Congressman Garry Brown, a committee member, to persuade Brown to help limit the scope of the committee's hearings. On September 8, Brown sent a letter to Attorney General Kleindienst which, according to Dean, Parkinson had drafted.<sup>87</sup> The letter inquired as to the propriety of Stans' testimony before the committee, scheduled for September 14, in view of pending civil and criminal suits. Congressman Brown has filed a sworn statement with the committee denying that Parkinson drafted this letter, and Dean's statement, admittedly based on hearsay, has not been corroborated.<sup>88</sup> The committee has found no evidence that Congressman Brown committed any improprieties.

The Justice Department, according to Dean, declined at this time to recommend that Stans not be required to testify, being of the view such a suggestion would appear part of a concerted effort to block the hearings. Nonetheless, Parkinson informed the committee that Stans would not appear in order to avoid prejudicing pending criminal investigations.<sup>89</sup>

In the last week of September, Dean took an active role in White House efforts to hinder the work of the Patman investigation. After Patman announced on September 25 that he would hold a vote on October 3 on issuing subpoenas to witnesses, Haldeman suggested that Dean talk to John Connally about blocking the committee's hearings. Connally, Dean said, responded that Patman's only "soft spot" was a rumor that he had not reported large contributions from lobbyists. Dean then asked Parkinson to investigate the reports filed by members of the committee with the Clerk of the House concerning campaign contributions. Parkinson furnished such a report on September 26, which Dean said he did not use.

Dean next persuaded Henry Petersen, Chief of the Criminal Division of the Department of Justice, to write committee members to dissuade them from issuing subpoenas.<sup>90</sup> Petersen, in an October 2 letter to the members, asked that they delay their investigation because it might jeopardize fair criminal trials.<sup>91</sup> On October 3, the committee voted not to hold hearings.<sup>92</sup>

However, on October 10, Patman announced that his committee would convene in 2 days in another attempt to investigate the Watergate affair. Patman requested Dean, Mitchell, MacGregor and Stans to appear.<sup>93</sup> Dean declined to appear, claiming executive privilege. The others declined on advice of counsel and Patman did not reconvene the committee.

## 2. THE CIVIL SUITS

A counteroffensive was likewise mounted regarding the civil suits brought by the Democratic National Committee against CRP. Dean testified that, around September 9 or 10, both Haldeman and Colson relayed to him a request from the President that a counteraction be filed against the Democrats "as quickly as humanly possible."<sup>94</sup> On September 13, CRP filed a \$2,500,000 countersuit against the DNC

<sup>87</sup> 3 *Hearings* 959.

<sup>88</sup> Exhibit 69, 4 *Hearings* 1791.

<sup>89</sup> 3 *Hearings* 959-60.

<sup>90</sup> 3 *Hearings* 960-62.

<sup>91</sup> 3 *Hearings* 1194.

<sup>92</sup> 3 *Hearings* 962.

<sup>93</sup> 3 *Hearings* 962.

<sup>94</sup> 3 *Hearings* 956.



for abuse of process and, on September 14, Stans brought a \$5 million libel suit against Lawrence O'Brien, DNC chairman.

Dean testified that, when he met with the President on September 15, the various civil cases were discussed. Dean stated he told the President that CRP lawyers were handling both the DNC suit and one filed by Common Cause. He said Judge Ritchie had been helpful in slowing down these civil cases. The President was informed as to the status of the CRP abuse of process suit and the Stans libel action. Halde- man's testimony and the edited transcripts support Dean's testimony in this regard.<sup>95</sup> The edited transcripts, at p. 60, contain the following exchange:

D. You might be interested in some of the allocations we got. The Stans' libel action was assigned to Judge Ritchie.

P. (Expletive deleted.)

D. Well now that is good and bad. Judge Ritchie is not known to be one of the (inaudible) on the bench, that is con- sidered by me. He is fairly candid in dealing with people about the question. He has made several entrees off the bench—one to Kleindienst and one to Roemer McPhee to keep Roemer abreast of what his thinking is. He told Roemer he thought Maury ought to file a libel action.

P. Did he? <sup>96</sup>

H. Can he deal with this concurrently with the court case?

D. Yeah. The fact that the civil case drew to a halt—that the depositions were halted he is freed.

H. It was just off for a few days, wasn't it?

D. It did more than that—he had been talking to Silbert, one of the Assistant U.S. Attorneys down here. Silbert said, "We are going to have a hell of a time drawing these indict- ments because these civil depositions will be coming out and the Grand Jury has one out on this civil case but it is nothing typical.

### 3. CIA INVESTIGATIVE MATERIALS

According to Dean, shortly after the Select Committee was created, Ehrlichman urged him to have the CIA retrieve from the Department of Justice certain photographs which came from a CIA camera sup- plied Hunt that Hunt had returned to the Agency. The pictures in- cluded one of Liddy posed in front of Dr. Fielding's office which was burglarized.<sup>97</sup> Dean said Ehrlichman wanted the photographs and ac- companying documents retrieved "before the Senate investigators got a copy of the material."<sup>98</sup>

Dean further testified he sought to obtain the photographs from Henry Petersen, claiming they had nothing to do with Watergate. Petersen told Dean that the Justice Department had received a letter from Senator Mansfield asking preservation of all evidentiary ma- terials that might have any relationship to Watergate. Petersen stated he would be willing to return the materials to the CIA, if it requested

<sup>95</sup> 3 *Hearings* 958; 7 *Hearings* 2888-89; Edited Presidential Conversations, pp. 60-61, 74-75.

<sup>96</sup> The purported House version has the President adding the comment "Good" after the above question.

<sup>97</sup> 3 *Hearings* 977-78.

<sup>98</sup> 3 *Hearings* 978.

such action, and leave a card in the Department's file indicating what he had done.<sup>99</sup> Subsequently, General Walters of the CIA visited Dean to state that he was opposed to retrieving the material under those circumstances and the idea was dropped.<sup>1</sup>

#### 4. OTHER ACTIVITIES RELATING TO THE SELECT COMMITTEE

Evidence received by the Select Committee demonstrates considerable concern on the part of certain White House officials as to how to deal with the Select Committee, which, Dean said, was viewed as an uncontrollable, if not hostile, body that presented new and possibly more dangerous problems than the criminal trials.<sup>2</sup>

##### *a. The La Costa Meeting*

A major meeting of White House officials to develop strategy regarding the Select Committee took place at the La Costa Resort Hotel, south of San Clemente, on February 10 and 11, 1973. Attending the meeting were Haldeman, Ehrlichman, Dean and Richard Moore.<sup>3</sup> Dean stated that the meeting at La Costa was wide-ranging, involving an evaluation of Select Committee members and the White House strategy for dealing with the committee.<sup>4</sup> According to Dean, the basic strategy was:

The White House will take a public posture of full cooperation but privately will attempt to restrain the investigation and make it as difficult as possible to get information and witnesses. A behind-the-scenes media effort would be made to make the Senate inquiry appear very partisan. The ultimate goal would be to discredit the hearings and reduce their impact by attempting to show that the Democrats have engaged in the same type of activities.<sup>5</sup>

Dean said a special program was planned to handle press coverage of the Senate hearings. Haldeman, he said, suggested that Pat Buchanan be used as a press watchdog. Buchanan would prepare speeches on biased press coverage, write op-ed articles, attend the hearings and be the White House spokesman to take pressure off Ronald Ziegler in his daily briefings.<sup>6</sup> Moore and Haldeman, however, recollect that it was Dean who suggested this role for Buchanan.<sup>7</sup>

Special plans were made as to CRP activities regarding the hearings. It was decided that CRP would increase its legal and public relations staff and that Paul O'Brien and Ken Parkinson would be responsible for handling CRP witnesses called to testify.<sup>8</sup> Ehrlichman testified it was generally concluded that CRP, with Mitchell returning as its head, would operationally be the best entity to deal with the Select Committee hearings.<sup>9</sup>

<sup>99</sup> 3 Hearings 978.

<sup>1</sup> 3 Hearings 979.

<sup>2</sup> 3 Hearings 980-81.

<sup>3</sup> 3 Hearings 982.

<sup>4</sup> 3 Hearings 983-84.

<sup>5</sup> 3 Hearings 984.

<sup>6</sup> 3 Hearings 985.

<sup>7</sup> 5 Hearings 1941 ; 7 Hearings 2891.

<sup>8</sup> 3 Hearings 985.

<sup>9</sup> 7 Hearings 2850.

Dean said that toward the end of the meeting on February 11 Ehrlichman raised the "bottom line" question: "Would the seven Watergate defendants remain silent through the Senate hearings?"<sup>10</sup> This was important, Dean said, since their entire strategy rested on the continued silence of the Watergate defendants. Dean told Haldeman and Ehrlichman there were still demands for more money. Richard Moore, Dean said, was therefore assigned to go to New York to see Mitchell "simply [to] lay it out that it was Mitchell's responsibility to raise the necessary funds for these men."<sup>11</sup> Moore confirmed this testimony:

Dean, in a sort of by-the-way reference, said he had been told by the lawyers—and I think that was the way he put it, but I cannot be precise about his language—that they may be needing some more money, and did we have any ideas? Someone said, isn't that something that John Mitchell might handle with his rich New York friends. It was suggested that since I would be meeting with Mr. Mitchell I should mention this when I saw him and I said I would.<sup>12</sup>

Ehrlichman also confirms that Moore was sent to New York to see Mitchell about raising money for the Watergate defendants whose sentences were pending.<sup>13</sup> When Moore broached the issue with Mitchell, Mitchell said—according to Moore—"get lost," or "tell them to get lost."<sup>14</sup> Mitchell confirms that he declined Moore's fundraising suggestion. He testified that the "general tenor of the subject matter" was that the money was for the "payment for the support and the legal fees of the people that were involved in the Watergate."<sup>15</sup>

Moore, Ehrlichman and Haldeman provided further confirmation and elaboration of Dean's testimony concerning the La Costa discussion. Moore testified that at this meeting the participants discussed preparation for the Select Committee hearings, executive privilege, a possible White House statement on Watergate in advance of the hearings, manpower for CRP to cope with the hearings, and the pending lawsuits.<sup>16</sup>

Ehrlichman testified that the La Costa meeting was called "because the President had asked who was handling the preparation of the White House case for the Senate Select Committee hearings, and what planning was being done, and what was the White House position going to be on matters like executive privilege, and there were no answers to those questions."<sup>17</sup> Ehrlichman admitted that the La Costa group discussed steps to affect the Select Committee's resolution and also evaluated members of the committee.<sup>18</sup> He also confirmed that a strategy to block or delay the hearings was discussed, including a proposal to seek judicial delay.<sup>19</sup> Haldeman basically concurred in Moore's recollections of the La Costa meeting.<sup>20</sup> The interest of the

<sup>10</sup> 3 *Hearings* 985.

<sup>11</sup> 3 *Hearings* 985-86.

<sup>12</sup> 5 *Hearings* 1941-42.

<sup>13</sup> 7 *Hearings* 2850.

<sup>14</sup> 5 *Hearings* 2049.

<sup>15</sup> 5 *Hearings* 1935.

<sup>16</sup> 5 *Hearings* 1940-41, 1964, 1966.

<sup>17</sup> 7 *Hearings* 2849.

<sup>18</sup> 7 *Hearings* 2850.

<sup>19</sup> 7 *Hearings* 2850-51.

<sup>20</sup> 7 *Hearings* 2890.

White House in effecting the outcome of the Select Committee's hearings is further demonstrated by numerous passages in the edited presidential transcripts where the President, Ehrlichman, Haldeman and Dean discussed various ways to deal with the upcoming hearings to limit the Select Committee's effectiveness, and to "cut the losses" of the White House. *See e.g.*, the meeting of February 28, 1973, between the President and Dean at pp. 55-76, which is subsequently discussed.

*b. Documentary and Other Evidence Indicating the  
White House Strategy*

In support of his testimony concerning White House preparations for the hearings, Dean submitted to the committee a February 9, 1973, "Eyes Only" memorandum from Haldeman to Dean emphasizing the need for a minority counsel to the Ervin Committee who was a "real tiger, not an old man or a soft-head. . . ." Also, Haldeman indicated therein that Dean would instruct Kleindienst to order the FBI to prepare a file on the "1968 bugging" of candidate Richard Nixon in preparation for a counteroffensive.<sup>21</sup> Haldeman, under questioning, authenticated this memorandum.<sup>22</sup>

Another memorandum supplied by Dean was from Lawrence Higby, Haldeman's assistant, to Dean, dated February 10, 1973. This document emphasized the need "to get a thorough itemization as quickly as possible of all the disruptions that occurred in the campaign . . . for our Watergate tactics with the Ervin Committee."<sup>23</sup>

A demonstration of the strong counteroffensive Haldeman was planning is found in a memorandum from Haldeman to Dean, dated February 10, 1973:

We need to get our people to put out the story on the foreign or Communist money that was used in support of demonstrations against the President in 1972. We should tie all 1972 demonstrations to McGovern and thus to the Democrats as part of the peace movement.

The investigation should be brought to include the peace movement which leads directly to McGovern and Teddy Kennedy. This is a good counteroffensive to be developed. . .

We need to develop the plan on to what extent the Democrats were responsible for the demonstrations that led to violence or disruption.

There's also the question of whether we should let out the Fort Wayne story now.<sup>24</sup>—that we ran a clean campaign compared to theirs of libel and slander such as against Rebozo, etc.

We could let Evans and Novak put it out and then be asked about it to make the point that we knew and the President said it was not to be used under any circumstances. In any event, we have to play a very hard game on this whole thing and get our investigations going as a counter move.<sup>25</sup>

<sup>21</sup> Exhibit No. 34-33; 3 *Hearings* 1240.

<sup>22</sup> 8 *Hearings* 3203-5.

<sup>23</sup> 3 *Hearings* 1241.

<sup>24</sup> The Fort Wayne story involved a Democratic public official's alleged illegitimate child.

<sup>25</sup> 3 *Hearings* 1242.

Haldeman accepted responsibility for the contents of this memorandum.<sup>26</sup>

Dean testified the White House feared the Senate hearing might force the Justice Department into further criminal investigations that would lead back to the White House. It was important, Dean said, that the President meet with Kleindienst and "bring [him] back in the family to protect the White House . . ." <sup>27</sup> Dean indicated he felt the President should "solicit Kleindienst's assistance during the hearings and, if anything should develop during the hearings, to not let all hell break loose in a subsequent investigation." <sup>28</sup> The proposed meeting between the President and Kleindienst was to be a "stroking session." In a February 22, 1973, talking paper which Dean submitted to Haldeman for transmittal to the President the following recommendations were made respecting this proposed meeting:

Kleindienst should be asked to remain in office until at least one full year from this date (i.e. until after the Water-gate hearings have passed), because the hearings may well result in a request for additional action by the Department of Justice. We can't afford bitterness at Justice nor can we risk a new Attorney General being able to handle some of the potential problems.

Kleindienst should be asked to follow the hearings closely and keep us apprised of any potential problems from a Department of Justice standpoint.

Kleindienst should be given the feeling that he is an important member of the team and it is not merely because of these hearings that he is being asked to stay on.<sup>29</sup>

Kleindienst confirmed that he met with President Nixon in late February and that the President requested him to stay at his post until the investigation was over.<sup>30</sup>

Several days later, on February 28, the President personally expressed to Dean his concern over the upcoming Select Committee hearings. The President stated his hope that the committee would have one "big slambang thing for a whole week," after which "interest in the whole thing will fall off." <sup>31</sup> Dean warned the President that:

I think this is going to be very different. It will be hot. I think they are going to be tough. I think they are going to be gory in some regards, but I am also convinced that if everyone pulls their own oar in this thing, in all those we've got with various concerns, we can make it through these things and minimal people will be hurt. And they may even paint themselves as being such partisans. . . . [p. 93.]

The President said he hoped the committee would "be partisan rather than for them to have a facade of fairness and all the rest." <sup>32</sup> The February 28 meeting concluded with President Nixon telling Dean

<sup>26</sup> 8 *Hearings* 3180.

<sup>27</sup> 3 *Hearings* 989.

<sup>28</sup> 3 *Hearings* 989.

<sup>29</sup> Exhibits Nos. 34-36; 3 *Hearings* 1247-48.

<sup>30</sup> 9 *Hearings* 3568-69.

<sup>31</sup> Edited Presidential Conversations, p. 79.

<sup>32</sup> *Id.* at p. 93.

that he expected Mitchell "won't allow himself to be ruined [by Watergate]. *He will put on his big stone face* [before the committee]. But *I hope he does* and he will."<sup>33</sup> [Emphasis added.] Dean expressed concern that the Select Committee was out to get him, a notion the President discounted. The President, however, did indicate a belief that the Select Committee was "after" Haldeman, Colson, or Ehrlichman.<sup>34</sup>

##### 5. HENRY PETERSEN'S COMMUNICATIONS TO THE PRESIDENT

The edited transcripts of Presidential conversations show that Henry Petersen, Chief of the Justice Department's Criminal Division, served as a conduit for a constant flow of information from the grand jury and the prosecutors first to Dean and then to the President. The transcripts also demonstrate that the President kept Haldeman and Ehrlichman informed of what he learned from Petersen. Petersen's conduct raises a serious question as to whether high Department of Justice officials can effectively administer criminal justice where White House personnel, or the President himself, are the subjects of the investigation. The conflict of interest is apparent and a committee recommendation deals directly with this issue. (See Recommendation 1, this chapter.)

Early in the Watergate investigation (in 1972) Petersen had kept Dean informed. Dean told the President during their morning March 21 meeting that Petersen had made him "totally aware" of relevant information with respect to the prosecutorial effort.

There is no doubt that I was totally aware of what the Bureau [FBI] was doing at all times. I was totally aware of what the Grand Jury was doing. *I knew what witnesses were going to be called. I knew what they were asked, and I had to.*<sup>35</sup> [Emphasis added.]

The President asked Dean: "Why did Petersen play the game so straight with us?" Dean replied:

Because Petersen is a soldier. He kept me informed. *He told me when we had problems, where we had problems and the like. He believed in you and he believes in this Administration. This Administration made him. I don't think he had done anything improper, but he did make sure that the investigation was narrowed down to the very, very fine criminal thing which was a break for us. There is no doubt about it.*<sup>36</sup> [Emphasis added.]

Dean assured the President during this meeting that Petersen is "the only man I know . . . that really could tell us how this could be put together so that it did the maximum to carve it away with a minimum of damage to individuals involved."<sup>37</sup>

Later, in April 1972, Petersen and the President met on several occasions to discuss the progress of the Watergate investigation. At one session, Petersen assured the President that the investigation would

<sup>33</sup> *Id.* at p. 110.

<sup>34</sup> *Ibid.*

<sup>35</sup> Edited Presidential Conversations, p. 185: Meeting of March 21, 1973.

<sup>36</sup> *Ibid.*

<sup>37</sup> *Id.* at p. 205.

not reach him because the Department of Justice had no jurisdiction to investigate the President:

I've said to [U.S. Attorney Harold H.] Titus "We have to draw the line. We have no mandate to investigate the President. We investigate Watergate."<sup>38</sup>

He continued:

My understanding of law is—my understanding of our responsibilities, is that if it came to that I would have to come to you and say, "We can't do that." The only people who have jurisdiction to do that is the House of Representatives, as far as I'm concerned.<sup>39</sup>

Petersen, however, at an April 17 meeting told the President that:

Mr. President, if I thought you were trying to protect somebody, I would have walked out.<sup>40</sup>

Petersen's role as a conduit of secret grand jury information is illustrated by his telephone conversation of April 16, 1973, with the President (from 8:58 to 9:14 p.m.). The conversation began:

P. I just want to know if there are any developments I should know about and, second, that *of course* as you know, *anything you tell me, as I think I told you earlier, will not be passed on.*

HP. I understand, Mr. President.

P. *Because I know the rules of the grand jury.*<sup>41</sup> [Emphasis added.]

Petersen then began to relate to the President secret information before the grand jury. He relayed to the President the factual details of the investigation, even indicating where there were gaps. Thus he told the President that Dean "got in touch with Kalmbach to arrange for money, the details of which we really don't know as yet."<sup>42</sup>

The next morning, April 17, from 9:47 to 9:59 a.m., the President met with Haldeman and discussed strategy for dealing with the Watergate affair. In the course of that conversation, the President, who had been informed that the Justice Department did not know the details of Kalmbach's arrangement for money, said to Haldeman:

Another thing, if you could get John [Ehrlichman] and yourself to sit down and do some hard thinking about what kind of strategy you are going to have with *the money. You know what I mean.*<sup>43</sup> [Emphasis added.]

The President also told Haldeman:

Well, be sure that Kalmbach is at least aware of this, that LaRue has talked very freely. He is a broken man. . . .<sup>44</sup>

Petersen had informed the President on April 16, 1973, that Dean had said that Liddy "confessed to Dean" on June 19, 1972, and that

<sup>38</sup> *Id.* at p. 1259, meeting of April 27, 1973.

<sup>39</sup> *Id.* at p. 1259-60.

<sup>40</sup> *Id.* at p. 1086.

<sup>41</sup> *Id.* at p. 966.

<sup>42</sup> *Id.* at 969. Earlier in the day, the President had informed Ehrlichman and Ziegler that "I've got Petersen on a short leash". [Edited Presidential Conversations, p. 94.]

<sup>43</sup> Edited Presidential Conversations, p. 983.

<sup>44</sup> *Ibid.*

Dean then told Ehrlichman what Liddy had said.<sup>45</sup> The next morning the President told Haldeman:

Dean met with Liddy on June 19th, must have been when he did it. He was in California in January but that is irrelevant. But they keep banging around and banging around. The prosecution gets out the damn stuff. Did John talk with you about it?

H. Yeh, he mentioned it. Dean did tell us that story in Ehrlichman's office last week or two weeks ago.

P. But not to go all through this.

H. I don't think so.<sup>46</sup>

The transcript of the President-Petersen meeting of April 17 provides another example of Petersen's briefing the President on information received by the prosecutors and grand jury.<sup>47</sup> This conversation also shows that Petersen was giving the President tactical advice as to the posture the White House should strike during the investigation. During this conversation, the President told Petersen not to tell him "anything out of the grand jury unless you think I need to know it. If it corroborates something or anybody here I need to know it—otherwise I don't want to know about it."<sup>48</sup>

The President then asked: "I guess it would be legal for me to know?" and Petersen responded: "Well yes, I think it is legal for you to know."<sup>49</sup> Petersen subsequently left this meeting, Haldeman and Ehrlichman appeared and the President proceeded then to relay to them the information obtained from Petersen.<sup>50</sup>

At least by April 27, Petersen's constant contact with the White House created suspicions among the Department of Justice Watergate investigators. Petersen admitted to the President on April 27:

We had a kind of crisis of confidence night before last. . . .

And in effect it concerned me—whether or not they were at ease with my reporting to you, and I pointed out to them that I had very specific instructions, discussed that with them before on that subject. . . . As a consequence—I kind of laid into [Harold] Titus yesterday and it cleared the air a little bit, but there is a very suspicious atmosphere. They are concerned and scared. . . .<sup>51</sup>

## N. THE BEGINNING OF THE UNRAVELING OF THE COVERUP

The coverup began publicly to unravel when McCord broke his silence on March 21, 1972, with his letter to Judge Sirica which was read in open court on March 23. It was soon learned that McCord had accused Magruder of perjury and Mitchell, Magruder and Dean of participating in planning the Watergate break-in. Even before McCord broke his silence, Magruder and Dean were concerned about the viability of the coverup. Magruder, according to his testimony, expressed his concerns to Haldeman as early as January 1973, and to

<sup>45</sup> *Id.* at p. 974.

<sup>46</sup> *Id.* at p. 982.

<sup>47</sup> *Id.* at p. 1060, *et seq.*

<sup>48</sup> *Id.* at 1060.

<sup>49</sup> *Id.* at 1061.

<sup>50</sup> *Id.* at p. 1115 *et seq.*

<sup>51</sup> *Id.* at p. 1258.



Mitchell and Dean in March; Dean voiced his fears to the President on several occasions.

#### 1. THE FEBRUARY 28 MEETING

According to Dean, he met with the President on February 28, 1973, and, after discussion of a number of matters, informed him that he (Dean) was involved in the post-June 17 activities regarding Watergate. "I briefly described to him why I thought I had legal problems, and that I had been a conduit for many of the decisions that were made and, therefore, could be involved in an obstruction of justice." Dean said the President did not accept his analysis, wanted no details and told him not to worry because he had no legal problems.<sup>52</sup>

The edited Presidential transcript of this meeting does not, in significant respects, bear out Dean's recollection of this meeting. However, in Dean's meeting with the President on March 21, he did tell the President that he could go to prison for obstruction of justice since he was acting as a conduit in the payments of money to the defendants. The President discounted this possibility, as Dean has testified, on the ground that Dean was acting as a lawyer.<sup>53</sup> This conversation is quite similar to the one Dean testified took place on February 28 and it thus appears, from these unauthenticated transcripts, that Dean placed this discussion with the President on the wrong date when he testified before the Select Committee. Nonetheless, there are certain statements during the February 28th meeting that can be construed as referencing the coverup then in progress:

P. I feel for those poor guys in jail, particularly for Hunt and with his wife dead.

D. *Well there is every indication they are hanging in tough right now.*

P. What the hell do they expect though? Do they expect clemency in a reasonable time? What would you advise on that?

D. I think it is one of those things we will have to watch very closely. For example,—

P. You couldn't do it, say, in six months.

D. No, you couldn't. This thing may become so political as a result of these hearings that it is a vendetta. This judge may go off the deep end in sentencing, and make it so absurd that it's clearly injustice that they have been heavily—[p. 102.]

\* \* \* \* \*

D. *Well I was—we have come a long road on this thing now. I had thought it was an impossible task to hold together until after the election until things started falling out, but we have made it this far and I am convinced we are going to make it the whole road and put this thing in the funny pages of history books rather than anything serious because actually—*

P. It will be somewhat serious but the main thing, of course is also the isolation of the President.

<sup>52</sup> 3 *Hearings* 992-93.

<sup>53</sup> Edited Presidential conversations, pp. 204-6.

D. Absolutely! Totally true!

P. Because that, fortunately, is totally true.

D. I know that sir!

P. [Expletive deleted.] Of course, I am not dumb and I will never forget when I heard about this [adjective deleted] forced entry and bugging. I thought, what in the hell is this? What is the matter with these people? Are they crazy? I thought they were nuts! A prank! But it wasn't! It wasn't very funny. I think that our Democratic friends know that too. They know what the hell it was. They don't think we'd be involved in such. [pp. 108-9.]

\* \* \* \* \*

P. But I think it is very important that you have these talks with our good friend Kleindienst.

D. That will be done.

P. Tell him we have to get these things worked out. We have to work together on this thing. I would build him up. He is the man who can make the difference. Also point out to him what we have. (expletive deleted) Colson's got (characterization deleted), but I really, really,—this stuff here—let's forget this. But let's remember this was not done by the White House. *This was done by the Committee to Re-Elect, and Mitchell was the Chairman, correct?*

D. That's correct!

P. And Kleindienst owes Mitchell everything. Mitchell wanted him for Attorney General. Wanted him for Deputy, and here he is. Now, (expletive deleted). Baker's got to realize this, and that if he allows this thing to get out of hand *he is going to potentially ruin John Mitchell. He won't. Mitchell won't allow himself to be ruined. He will put on his big stone face. But I hope he does and he will.* There is no question what they are after. What the Committee is after is somebody at the White House. They would like to get Haldeman or Colson or Ehrlichman.

D. *Or possibly Dean.—You know. I am a small fish.*

P. *Anybody at the White House they would—but in your case I think they realize you are the lawyer and they know you didn't have a [adjective deleted] thing to do with the campaign.*

D. That's right.

P. That's what I think. Well, we'll see you. [pp. 109-10.] [Emphasis added throughout.]

## 2. THE MARCH 13 MEETING

Dean's testimony was that the money demands by Hunt and how to meet them and the promise of clemency to Hunt were discussed with the President and Haldeman at this meeting. This testimony is not supported by the edited Presidential transcripts of this meeting. It appears from that document and Haldeman's testimony <sup>54</sup> that Dean confused his morning meeting with the President on March 21—where

<sup>54</sup> 7 Hearings 2898.

Hunt's money demands and clemency were discussed—with the events of March 13. Nevertheless, the March 13 transcript is significant because it shows that, on that date, Dean revealed at least some of the aspects of the coverup to the President. Some illustrative passages from the edited Presidential conversations follow :

P. Who is going to be the first witness up there?

D. Sloan.

P. Unfortunate.

D. No doubt about it—

P. He's scared?

D. He's scared, he's weak. He has a compulsion to cleanse his soul by confession. We are giving him a lot of stroking. Funny thing is this fellow goes down to the Courthouse here before Sirica, testifies as honestly as he can testify, and Sirica looks around and called him a liar. He just said—Sloan just can't win! So Kalmbach has been dealing with Sloan. Sloan is like a child. Kalmbach has done a lot of that. The person who will have a greater problem as a result of Sloan's testimony is Kalmbach and Stans. So they are working closely with him to make sure that he settles down. [p. 138.]

\* \* \* \*

D. . . . [*Kalmbach*] is solid.

P. He will—how does he tell his story? He has a pretty hard row to hoe—he and Stans have.

D. *He will be good.* Herb is the kind of guy who will check, not once nor twice, on his story—not three times—but probably fifty to a hundred times. *He will go over it. He will know it. There won't be a hole in it.* Probably he will do his own Q and A. He will have people cross-examine him from ten ways. He will be ready, as Maury Stans will be ready.

P. *Mitchell is now studying, is he?*

D. He is studying. Sloan will be the worst witness, I think Magruder will be a good witness. This fellow, Bart Porter, will be a good witness. They have already been through grand jury. They have been through a trial. They did well . . . [p. 140.]

\* \* \* \*

D. Chapin didn't know anything about the Watergate.

P. Don't you think so?

D. Absolutely not.

P. *Strachan?*

D. *Yes.*

P. *He knew?*

D. *Yes.*

P. *About the Watergate?*

D. *Yes.*

P. *Well, then he probably told Bob. He may not have.*

D. He was judicious in what he relayed, but Strachan is as tough as nails. *He can go in and stonewall and say, "I don't know anything about what you are talking about." He has already done it twice you know, in interviews.*

P. *I guess he should, shouldn't he? I suppose we can't call that justice, can we?*

D. Well, it is a personal loyalty to him. He doesn't want it any other way. He didn't have to be told. He didn't have to be asked. It just is something that he found was the way he wanted to handle the situation.

P. But he knew? He knew about Watergate? Strachan did?

D. Yes.

P. I will be damned! *Well that is the problem in Bob's case.* Not Chapin then, but Strachan. Strachan worked for him, didn't he?

D. Yes. They would have one hell of a time proving that Strachan had knowledge of it, though.

P. Who knew better? Magruder?

D. Magruder and Liddy.

P. Oh, I see. The other weak link for Bob is Magruder, he hired him et cetera.

D. That applies to Mitchell, too. [pp. 146-47.]

\* \* \* \* \*

P. Is it too late to go the hang-out road?

D. Yes, I think it is. The hang-out road—

P. The hang-out road (inaudible).

D. It was kicked around Bob and I and—

P. Ehrlichman always felt it should be hang-out.

D. Well, I think I convinced him why he would not want to hang-out either. *There is a certain domino situation here. If some things start going, a lot of other things are going to start going, and there can be a lot of problems if everything starts falling. So there are dangers, Mr. President. I would be less than candid if I did not tell you there are. There is a reason for not everyone going up and testifying.*

P. I see, Oh no, no, no! I didn't mean to have everyone go up and testify.

D. Well I mean they're just starting to hang-out and say here's our story—

P. I mean put the story out PR people, here is the story, the true story about Watergate.

D. They would never believe it . . . [pp. 150-51.]

[Emphasis added throughout.]

### 3. THE MARCH 21 MEETING

On March 21, 2 days before McCord's letter to Judge Sirica became public, Dean met with the President to give him a report of his knowledge of the Watergate facts and to explain the implications of those facts. Dean's testimony before the Select Committee was as follows: He told the President that "there was a cancer growing on the Presidency and that if the cancer was not removed the President himself would be killed by it." He told the President that the cancer must be excised immediately because it was growing more deadly every day. He then gave the President a broad overview of the Watergate affair, including a description of the meetings in January and February 1972

in Mitchell's office. He told the President he did not know how the plan was approved but that he was informed that Mitchell and Haldeman (the latter through Strachan) had received illegal wiretap information.<sup>55</sup> Dean informed the President of the highlights of the coverup, including the use of Kalmbach by Ehrlichman, Haldeman, and Mitchell to raise hush money to pay the Watergate defendants. He spoke of Magruder's false story before the grand jury and of his role in assisting Magruder to commit perjury. He told the President that, for the coverup to continue, it would require even more perjury and more money.<sup>56</sup>

Certain portions of the edited Presidential transcript for this meeting relating to hush money and clemency have been previously presented in this report. The following quotations provide further indication of the tenor of the conversation at that meeting:

P. Magruder is (unintelligible)

D. Yeah. Magruder is totally knowledgeable on the whole thing.

P. Yeah.

D. Alright now, we have gone through the trial. I don't know if Mitchell has perjured himself in the Grand Jury or not.

P. Who?

D. Mitchell. I don't know how much knowledge he actually had. I know that Magruder has perjured himself in the Grand Jury. I know that Porter has perjured himself in the Grand Jury.

P. Who is Porter? (unintelligible)

D. He is one of Magruder's deputies. *They set up this scenario which they ran by me. They said "How about this?" I said, "I don't know. If this is what you are going to hang on, fine."* [p. 182.]

\* \* \* \*

D. . . . Now what has happened post June 17? *I was under pretty clear instructions not to investigate this*, but this could have been disastrous on the electorate if all hell had broken loose. *I worked on a theory of containment—*

P. Sure.

D. *To try to hold it right where it was.*

P. Right. [p. 185.]

\* \* \* \*

D. . . . Liddy said if they all got counsel instantly and said we will ride this thing out. Alright, then they started making demands. "We have to have attorneys fees. We don't have any money ourselves, and you are asking us to take this through the election." Alright so arrangements were made through Mitchell, initiating it. And I was present in discussions where these guys had to be taken care of. Their attorney fees had to be done. Kalmbach was brought in. Kalmbach raised some cash.

<sup>55</sup> 3 Hearings 998; see also 8 Hearings 3074-75.

<sup>56</sup> 3 Hearings 998-1000; see also 8 Hearings 3074.

P. *They put that under the cover of a Cuban Committee, I suppose?*

D. Well, they had a Cuban Committee and they had—some of it was given to Hunt's lawyer, who in turn passed it out. You know, when Hunt's wife was flying to Chicago with \$10,000 she was actually, I understand after the fact now, was going to pass that money to one of the Cubans—to meet him in Chicago and pass it to somebody there.

P. (unintelligible) *but I would certainly keep that cover for whatever it is worth.*

D. That's the most troublesome post-thing because (1) Bob is involved in that; (2) John is involved in that; (3) I am involved in that; (4) Mitchell is involved in that. And that is an obstruction of justice. [p. 187.]

[Emphasis added throughout.]

Dean told the committee that he informed the President on March 21 that he did not believe that all of the seven defendants would maintain their silence forever and that one or more would likely break rank.<sup>57</sup> The transcripts reveal an extended discussion about various individuals capable of "blowing"<sup>58</sup> and about others who were "solid."<sup>59</sup> The edited transcripts indicate that Dean told the President: "I know, sir. I can just tell from our conversation that these are things you have no knowledge of." The President replied: "You certainly can!"<sup>60</sup> (These last remarks are consistent with Richard Moore's testimony that Dean had said to him that the President was not aware of White House coverup activity.)<sup>61</sup> According to the edited transcripts, the President, shortly thereafter, told Dean:

P. Let's come back to this problem. What are your feelings yourself, John? You know what they are all saying. What are your feelings about the chances?

D. *I am not confident that we can ride through this. I think there are soft spots.*

P. *You used to be—*[p. 203.]

[Emphasis added.]<sup>62</sup>

Dean said that in this meeting he told the President that, because he did not think they could carry the coverup any further, it was important for the President to get out in front in revealing the true facts.<sup>63</sup> The edited transcript released by the President reveals the following exchange:

P. So what you really come to is what we do. Let's suppose that you and Haldeman and Ehrlichman and Mitchell say we can't hold this? What then are you going to say? What are you going to put out after it. Complete disclosure, isn't that the best way to do it?

\* \* \* \* \*

<sup>57</sup> 3 *Hearings* 998-1000.

<sup>58</sup> Edited Presidential Conversations, p. 196.

<sup>59</sup> *Id.* at p. 192.

<sup>60</sup> *Id.* at p. 202.

<sup>61</sup> 5 *Hearings* 1944-45.

<sup>62</sup> On the afternoon of March 21st, the following colloquy occurred:

P. Well, it is a long road isn't it? When you look back on it, as John has pointed out here, it really has been a long road for all of you, of us.

H. It sure is.

P. *For all of us, for all of us . . .* (p. 253). [Emphasis added.]

<sup>63</sup> 3 *Hearings* 1000.

D. One way to do it is for you to tell the Attorney General that you finally know. Really, this is the first time you are getting all the pieces together. [pp. 203-4.]

But this recommendation was not followed. Dean testified that, despite his full disclosures to the President, a meeting with the President, Haldeman, Ehrlichman and Mitchell the following day, March 22, focused entirely on the White House's relationship with the Select Committee, particularly in regard to the assertion of executive privilege. The edited transcript of that meeting shows that this was the principal subject of discussion. Dean testified that he then became convinced that there would no effort to stop the coverup.<sup>64</sup>

#### 4. THE CAMP DAVID TRIP

Dean testified that on March 23, 1973, after McCord's letter was read in open court, the President called Dean and, referring to McCord's letter, said: "Well, John, you were right in your prediction."<sup>65</sup> The President suggested that he go to Camp David to analyze the situation. According to Dean, when he arrived at Camp David, he received a telephone call from Haldeman who instructed him to write a report on everything he knew about Watergate.<sup>66</sup> While Dean indicated this was his first instruction to put his knowledge in writing, the edited transcript of the March 21st afternoon meeting indicates that the President, at that meeting, asked Dean to write a report on Watergate.<sup>67</sup> Dean said he spent that day and the next thinking about the entire matter and concluded that the true facts must be publicly revealed because the situation would not improve, only worsen. He said he had several telephone conversations with Richard Moore, trying out ideas as to how the President could make the whole truth public. He said Moore seemed receptive but suggested he get Haldeman's reaction.

Dean spoke to Haldeman and concluded he was "intrigued but not overwhelmed" by the idea of public revelation. Dean said, "It was becoming increasingly clear that no one involved was willing to stand up and account for themselves."<sup>68</sup> Dean, at Camp David, did write a report but decided not to give it to Haldeman or the President when he returned.<sup>69</sup>

#### 5. DEAN'S INITIAL CONTACTS WITH PROSECUTORS AND THE SELECT COMMITTEE

On March 28, Haldeman asked Dean to return to Washington to meet with Mitchell and Magruder. Although Dean did not wish to do so, Haldeman insisted. Dean testified he had the distinct impression that Haldeman was "back-pedaling fast," that he was in the process of uninvolving himself even if it meant sacrificing others.<sup>70</sup>

<sup>64</sup> *Id.* at 1002.

<sup>65</sup> *Id.* at 1003.

<sup>66</sup> *Ibid.*

<sup>67</sup> Edited Presidential Conversations, p. 283.

<sup>68</sup> 3 *Hearings* 1003-5.

<sup>69</sup> *Id.* at 1006.

<sup>70</sup> *Ibid.*

The March 28 meeting between Dean, Mitchell and Magruder has been discussed earlier in this report. Magruder was concerned that everyone stick to the coverup story Magruder had given the grand jury as to the entries in Magruder's diary for the meetings in Mitchell's office on January 27 and February 4, 1972. Dean testified he refused to perpetuate this false story.<sup>71</sup>

On March 30, Dean retained an attorney, and, on April 2, he and his attorney met with the U.S. Attorneys. Dean told them he was willing to come forward with everything he knew about the Watergate affair.<sup>72</sup> Shortly afterward, Dean began providing information to the Select Committee under a special arrangement, approved by the committee, whereby he would speak only with the chief counsel to allow him to evaluate the information Dean could provide to determine whether the committee should offer Dean "use" immunity.

#### 6. THE EHRLICHMAN INVESTIGATION

As indicated above, when Dean returned from Camp David he did not submit a written report on Watergate to the President or Haldeman. Because of this, Haldeman said, the President, on March 30, ceased dealing with Dean on Watergate and transferred the White House Watergate investigation to Ehrlichman.<sup>73</sup> It appears, however, from the edited Presidential transcripts that this account of the genesis of the Ehrlichman "investigation" was developed during an April 16, 1973, meeting among the President, Haldeman and Ehrlichman.<sup>74</sup> According to the transcript, the President asked Haldeman and Ehrlichman how the "scenario worked out." Ehrlichman and Haldeman advised the President that the White House's position should be that the Watergate investigation was taken from Dean and given to Ehrlichman because Dean failed to write a report. According to this "scenario," it was Ehrlichman's report to the President that led the President to contact Kleindienst and Petersen on April 15 to inform them of his knowledge of the Watergate facts.<sup>75</sup>

Ehrlichman, however, told the committee he did not conduct a thorough investigation of the Watergate matter but only interviewed several White House and CRP officials including Mitchell, O'Brien and Magruder.<sup>76</sup> He testified he gave an oral report to the President on April 14, 1973, that was based on these few interviews.<sup>77</sup> Ehrlichman testified that, after his report, the President directed him to "advise the Attorney General" of his findings.<sup>78</sup> Ehrlichman telephoned Kleindienst at 5:15 p.m. on April 14 and related to him the contents of his report to the President.<sup>79</sup> As will subsequently appear, the prosecution already possessed much of the evidence Ehrlichman offered.

<sup>71</sup> *Ibid.*

<sup>72</sup> *Id.* at 1009.

<sup>73</sup> 7 *Hearings* 2902. On March 28, 1973, Ehrlichman called Kleindienst and taped the telephone conversation. (Exhibit 99, 7 *Hearings* 2941-45.) During this discussion, Ehrlichman told Kleindienst that, according to the President's best information, "neither Dean nor Haldeman nor Colson nor anybody in the White House" had any prior knowledge of this burglary. In fact, as indicated earlier in this report, the President was told by at least March 13 that Strachan and possibly Haldeman had prior knowledge.

<sup>74</sup> Edited Presidential Conversations, pp. 820-23.

<sup>75</sup> This episode is discussed below, p. 91-2.

<sup>76</sup> 7 *Hearings* 2763.

<sup>77</sup> *Id.* at 2757.

<sup>78</sup> *Id.* at 2758.

<sup>79</sup> *Id.* at 2857.



## 7. THE ATTEMPT TO HAVE MITCHELL TAKE THE BLAME

Dean testified that his first meeting to give information to the Federal prosecutors was scheduled for April 8. He said he felt obliged to tell Haldeman of his intentions and thus telephoned him that morning at San Clemente. Haldeman advised Dean against this course, saying: "Once the toothpaste is out of the tube, it's going to be very hard to get it back in." Dean ignored Haldeman's advice and met with the prosecutors that afternoon.<sup>80</sup> Moreover, Magruder in early April began talking with the prosecutors; his first substantive conversation with them was on April 14.<sup>81</sup>

Dean, according to his testimony, then began avoiding Haldeman and Ehrlichman. He did, however, have several conversations with them between April 9 and April 14, 1973. Certain of these discussions, according to Dean, involved a strategy to persuade Mitchell to "step forward" and take the blame.<sup>82</sup> Dean's testimony that this strategy existed is corroborated by the edited transcript of the April 14 meeting among the President, Ehrlichman and Haldeman. This transcript basically portrays a discussion as to how to persuade Mitchell and Magruder, whom they evidently believed involved, to assume responsibility for the Watergate affair and proclaim that the White House was in no way involved.<sup>83</sup> Various methods of persuasion were discussed. One was to suggest to both Mitchell and Magruder—without being specific—that clemency would be possible. The President instructed Ehrlichman to tell Mitchell and Magruder that "the President holds great affection for you and your family." He added, "That's the way the so-called clemency's got to be handled."<sup>84</sup>

The April 14 conversation also indicates discussion regarding the dismissal of Dean, who was then talking to the Federal prosecutors. From the conversation, it appears that the strategy to sacrifice Mitchell was motivated by the information Ehrlichman had received that Hunt was going to testify before the grand jury. Ehrlichman reported that Colson was very concerned about Hunt's possible testimony because "once Hunt goes on, that's the ball game." The President summarized Colson's advice to the White House as "get busy and nail Mitchell in a hurry."<sup>85</sup> The President, Ehrlichman and Haldeman decided to appeal to Mitchell's loyalty and enlist his aid in limiting the unraveling of the coverup. The President instructed Ehrlichman and Haldeman to approach Mitchell by saying, "there's nobody that can really do it except you." The President wanted Mitchell to testify that "[n]obody in the White House is involved, etc. and so on."<sup>86</sup>

## 8. THE PRESIDENT'S APRIL 15 MEETING WITH KLEINDIENST AND PETERSEN

Meanwhile, U.S. Attorney Titus, and Assistant U.S. Attorneys Earl Silbert, Donald Campbell and Seymour Glanzer, were outlining for Henry Petersen their discoveries in the case, which were largely based on information they were obtaining from Magruder and Dean.

<sup>80</sup> 3 *Hearings* 1010.

<sup>81</sup> 2 *Hearings* 808.

<sup>82</sup> 3 *Hearings* 1011.

<sup>83</sup> See, e.g., Edited Presidential Conversations, pp. 442-43, 450-51, 459, 501.

<sup>84</sup> Edited Presidential Conversations, pp. 502-3.

<sup>85</sup> *Id.* at pp. 409-10, 412.

<sup>86</sup> *Id.* at p. 451.

According to Petersen, he subsequently arranged for Kleindienst to meet with these prosecutors on the evening of April 14.<sup>87</sup> An all-night session ensued and the next day, a Sunday, Petersen and Kleindienst briefed the President on the evidence they had received, which indicated a massive coverup.<sup>88</sup> Both Petersen and Kleindienst said the President expressed no sign to them that Dean or anyone else had already imparted such information.<sup>89</sup> Petersen testified he urged the President to dismiss Haldeman and Ehrlichman because of their apparent involvement in the coverup, but not Dean, since Dean was cooperating with the prosecutors in its unraveling.<sup>90, 91</sup>

#### 9. FURTHER MEETINGS BETWEEN THE PRESIDENT AND DEAN

On the evening of April 15, 1973, Dean said he met with the President to inform him of his discussions with the prosecutors. He testified he told the President his conduct was not "an act of disloyalty" but an action he believed necessary because "I felt this matter had to end." The President asked whether he had received immunity and he advised that no deal had been made. Dean stated the President instructed him not to discuss national security matters or Presidential conversations with the prosecutors. He said the President then attempted to clarify his earlier March 21 comment that it would be no problem to raise \$1 million in hush money. Dean said the President told him he had only been joking when he made that remark.

Contrary to Petersen's advice, the President decided that Dean should leave the White House but that Haldeman and Ehrlichman should stay. Dean testified that, on April 16, the President called him into the Oval Office and gave him two letters prepared for his signature, "one letter requested the acceptance of Dean's resignation, the other letter requested an indefinite leave of absence." Both letters cited "my \* \* \* involvement in the Watergate matter" as cause for departure. Dean testified he refused to sign either letter. The President then, Dean said, requested Dean to prepare his own letter of resignation, which Dean agreed to do.<sup>92</sup> However, later in the day, Dean said, he informed the President that he would not resign unless Ehrlichman and Haldeman followed suit.<sup>93</sup>

The edited transcripts of these meetings confirm Dean's testimony in large part. At the first meeting, the President told Dean he would have to say something about Dean's resignation "or otherwise they

<sup>87</sup> According to Dean's opening statement before the Committee, Silbert, Campbell and Glazer had originally agreed with Dean's counsel to keep confidential the information Dean was giving them. But, after Dean informed Ehrlichman on April 14 that his attorney had told him that Haldeman and Ehrlichman were targets of the grand jury, Dean's counsel, late that evening, called Dean and told him that the prosecutors had informed him (Dean's counsel) that "they were going to have to breach the agreement they had made regarding keeping all [Dean's] conversations with them private." The reason given by the prosecutors for this change of position was that "the Attorney General had called Petersen and them and wanted a full report on everything that was going on before the grand jury and where the grand jury was headed" (3 *Hearings* 1014).

<sup>88</sup> 9 *Hearings* 3627-28.

<sup>89</sup> *Id.* at 3586-87, 3634.

<sup>90</sup> *Id.* at 3628-29.

<sup>91</sup> The edited transcript of an April 14 Oval Office meeting among the President, Haldeman, and Ehrlichman reveals that this meeting focused in part on Dean's plans to give testimony to the prosecutors and the question of whether Dean should be dismissed. The President described one tactic supporting Dean's dismissal as follows: "\* \* \* cut your losses and get rid of 'em. Give 'em an hors d'oeuvre and maybe they won't come back for the main course. Well, out, John Dean." (Edited Presidential Conversations, pp. 491-92.)

<sup>92</sup> 3 *Hearings* 1017-18.

<sup>93</sup> *Ibid.*

will say 'What the hell, after Dean told you all of this, what did you do?' You see?" The following colloquy then took place:

P. But what is your feeling on that? See what I mean?

D. Well, I think it ought to be Dean, Ehrlichman, and Haldeman.

P. Well, I thought Dean at the moment.

D. All right.

\* \* \* \* \*

P. \* \* \* And what I would think we would want to do is to have it in two different forms here \* \* \* It seems to me that your form should be to request an immediate leave of absence. That would be one thing. The other, of course, would be a straight resignation.

D. Uh, huh—

P. First, what I would suggest is that you sign both \* \* \*

\* \* \* \* \*

D. What I would like to do is draft up for you an alternative letter putting in both options and you can just put them in the file. Short and sweet.

P. All right. Fine. I had dictated something myself. All my own. If you can give me a better form, fine. I just want to do it either way. Do you? Or do you want to prepare something?

D. I would like to prepare something. [pp. 788–91.]

Later that day Dean returned with his draft:

D. I wrote: "Dear Mr. President: Inasmuch as you have informed me that John Ehrlichman and Bob Haldeman have verbally tendered their requests for immediate and indefinite leave of absence from the staff, I declare I wish also to confirm my similar request as having accepted a leave of absence from the staff." Well, I think there is a problem.

P. You don't want to go if they stay—

D. There is the problem for you of the scapegoat theory.

P. You mean making use of it.

D. That's right. [p. 958.]

#### 10. THE QUESTION OF IMMUNITY FOR DEAN

In the evening of April 17, 1973, President Nixon told the Nation:

I have expressed to the appropriate authorities my view that no individual holding in the past or at present a position of major importance in the Administration should be given immunity from prosecution.

Dean testified that:

When the President issued his statement on April 17, in which he was quite obviously trying to affect any discussions I was having with the Government regarding my testimony by inserting the phrase therein regarding "no immunity" and combined with the fact that he had requested that I sign a vir-

tual confession on Monday of that week, I decided that indeed I was being set up \* \* \* <sup>94</sup>

The edited Presidential transcripts provide some support for Dean's intimation that the President did not want him to receive immunity because of concern over his testimony. On the afternoon of April 17, the President expressed his concern over the threat Dean posed:

P. I'm not ruling out kicking him (Dean) out. But you got to figure what the hell does Dean know. What kind of black-mail does he have? [p. 992.]

Later that afternoon the President, observing that "Dean is the only one who can sink Haldeman or Ehrlichman," informed Haldeman and Ehrlichman he had told Assistant Attorney General Petersen "specifically, that nobody should be granted immunity in any case."<sup>95</sup> He told them, "I want you to go forward at all costs to beat the damned rap. They'll have one hell of a time proving it."<sup>96</sup>

On April 18, Petersen testified, the President called him to inquire whether Dean had been immunized. After checking with Dean's lawyer and Mr. Silbert, Petersen assured the President that Dean had not received immunity. The President told Petersen he had a tape of an April 15 conversation with Dean in which Dean said he had been immunized. The President offered to let Petersen hear the tape, but Petersen refused.<sup>97</sup>

On April 19, the President met with Haldeman's and Ehrlichman's lawyers, John J. Wilson and Frank Strickler. The following passage from the edited transcript of this conversation is significant:

P. Then, you got to remember Dean, as I have said, is a loose cannon.

W. I know he is.

P. The damndest charges you've ever heard. Some of them are unbelievable.

W. Yes.

P. This fellow that was sitting in here and who in the Office of the President—a very bright young guy—but he now wants to drag them down with him.

W. Yes. Oh, he's bad.

P. They must have told him what I—they—I think—have told Dean that, "*If he'll—if he can get Haldeman and Ehrlichman—he gets immunity.*" Now on that point, do you want Petersen to give him immunity, or not?

W. Uh——

P. Dean.

W. Well.

P. Should he?

W. Uh. Let me—as I understood, they were hung up on that right now.

P. They are.

W. Now.

<sup>94</sup> 3 *Hearings* 1020.

<sup>95</sup> Edited Presidential Conversations, p. 1193.

<sup>96</sup> *Id.* at p. 1197.

<sup>97</sup> 9 *Hearings* 3655. It was this conversation that the White House said later was never recorded because the tape "ran out."

P. *See, that's why—I put out a statement that no major figure should be given immunity.*

W. Let me tell you—

P. Basically, because I think it would look bad if—(unintelligible) from our standpoint \* \* \* [pp. 1239–1240.] [Emphasis added throughout.]

The edited transcripts also demonstrate that Secretary of State Rogers agreed with the President that it would look bad to give Dean immunity.<sup>98</sup>

On April 19, 2 days after the President's no-immunity statement, Dean issued a public statement that he would not be made a "scapegoat" in the Watergate affair.<sup>99</sup> On the same day Dean made this statement, White House aide Stephen Bull was asked to investigate Dean's awareness of the White House taping system. In his testimony during the Watergate tapes hearings before Judge Sirica, Bull was unable to recall who instructed him to make this check. He ascertained from a White House Secret Service official that Dean did not know about the system.<sup>1</sup> As former Presidential Assistant Alexander Butterfield testified, very few individuals were cognizant of the secret taping system.<sup>2</sup> On Easter Sunday, April 22, according to Dean, the President telephoned to wish him happy Easter. Dean characterized this as a "stroking" call.<sup>3</sup>

#### 11. THE PRESIDENT'S APRIL 30 STATEMENT

On April 30, 1973, President Nixon addressed the American public on Watergate, declaring he accepted full "responsibility" for the abuses that had transpired. The President announced the resignations of Haldeman and Ehrlichman, "two of my closest associates in the White House" and "two of the finest public servants it has been my privilege to know." He also revealed the resignations of Kleindienst and Dean and his selection of Elliot Richardson as Kleindienst's replacement. The President stated that Dean's resignation had been requested.

The President also claimed in this address that he had begun an "intensive" new investigation into the Watergate matter on March 21. The background of this statement is found in the edited presidential transcript of a meeting on April 17, at pp. 1121–22:

P. The next part is what I'm concerned about. "I began new inquiries," shall we say?

E. Well, I don't know.

P. "I began new inquiries into this matter as a result of serious charges, which were reported publicly and privately." Should we say that?

E. Publicly, comma "which in some cases were reported publicly."

P. "Four weeks ago we," *Why don't we say, shall we set a date? That sounds a hell of a lot stronger if we set a date.* (Emphasis added.)

<sup>98</sup> Edited Presidential Conversations, p. 1144.

<sup>99</sup> 3 *Hearings* 1020.

<sup>1</sup> *In re: Subpenas Duces Tecum Issued to President Richard M. Nixon* (D.D.C. Misc. No. 47–73), transcript of proceedings, pp. 2544–47.

<sup>2</sup> 5 *Hearings* 2077.

<sup>3</sup> 3 *Hearings* 1020.

E. All right.

P. "On March 21, I began new inquiries." Strike that. "I ordered an investigation, new inquiries throughout the government—"

On May 17 the committee opened its public hearings into the Watergate burglary and its aftermath. By August 7, 1973, when the first phase of hearings ended, the Gemstone plan, the break-in, the details of the coverup, and much more had been revealed.

### III. RECOMMENDATIONS

**1. The committee recommends that Congress enact legislation to establish a permanent Office of Public Attorney which would have jurisdiction to prosecute criminal cases in which there is a real or apparent conflict of interest within the executive branch. The Public Attorney would also have jurisdiction to inquire into (with power to gain access to executive records) the status and progress of complaints and criminal charges concerning matters pending in or involving the conduct of Federal departments and regulatory agencies. The Public Attorney would be appointed for a fixed term (e.g., 5 years), be subject to Senate confirmation and be chosen by members of the judicial branch to ensure his independence from executive control or influence.**

In each of the Nation's two major scandals during the past half century, Teapot Dome and Watergate, the appointment of a special prosecutor was essential to preserve the integrity of the criminal justice system and public confidence in the rule of law. In both situations, the office was created after serious abuses had occurred.

The evidence gathered by the Select Committee indicates that unmonitored executive investigative and prosecutorial agencies may be reluctant to expose wrongdoing in the executive branch. It is thus essential that an independent Public Attorney's Office be created to investigate and prosecute where conflicts of interest in the executive branch exist. This Office should be given power to inquire fully into corruption in the executive branch and have access to all records relating to such corruption. The operations of the current special prosecution force demonstrate the effective role such an entity can play.

The *preventative* role this Office could fulfill must be emphasized. Permanent status for this Office could help insure responsible action by executive branch officials who have primary responsibility to administer and enforce the law. Indeed, it is reasonable to speculate that the existence of a Public Attorney's Office might have served as a deterrent against some of the wrongful acts that comprise the Watergate scandal. Because of this preventive role, it is unwise to wait until another national crisis to re-institute the Office of Special Prosecutor. It is far better to create a permanent institution now than to consider its wisdom at some future time when emotions may be high and unknown political factors at play.

The Public Attorney we recommend would not be only a "special prosecutor" but an ombudsman having power to inquire into the administration of justice in the executive branch. With the power of access to executive records, he could appropriately respond to complaints from the public, the Congress, the courts and other public

and private institutions. If he became aware of misconduct in the executive branch, he could assume the role of special prosecutor. The Public Attorney should also be required to make periodic reports to Congress on the affairs of his office and the need for new legislation within his jurisdiction, a function that should be of great assistance to the relevant congressional oversight committees.

The Attorney General should find such an Office advantageous in cases involving charges against administration officials or persons otherwise close to high executive officers, particularly where a proper exercise of discretion *not* to prosecute would give rise to public suspicion of coverup. Such cases could be referred by the Attorney General to the Public Attorney. The Public Attorney would also have jurisdiction to prosecute all criminal cases referred to it by the Federal Elections Commission, which is elsewhere recommended in this report.

It is not anticipated that there would be substantial jurisdictional disputes between the Justice Department and the Public Attorney. The statute establishing the Public Attorney should grant him discretionary jurisdiction in any situation where there is a reasonable basis to conclude that a conflict of interest exists. He should have exclusive jurisdiction over criminal cases referred to him by the Federal Elections Commission. As to cases where a jurisdictional dispute cannot be resolved, provision should be made for special judicial determination on an expedited basis. Deciding such jurisdictional disputes would be well within the competence of the courts for the question would primarily be one of statutory interpretation.<sup>4</sup>

The present immunity statute would have to be amended to allow the independent prosecutor to grant "use" immunity without the consent of the Attorney General. The procedure by which the Public Attorney obtains immunity should be made similar to that applicable to congressional requests for immunity. The Attorney General would be informed of an immunity request, but he could only delay the immunity, not prevent it. Similarly, the Attorney General would inform the Public Attorney of his immunity decisions; the Public Attorney would have the power to delay, not prevent, immunity.

To guarantee true independence from the executive branch, the Public Attorney should be appointed for a fixed term (e.g., 5 years). He should be removable only by the appointing authority (described below) for gross improprieties. Because it is highly important that the Special Prosecutor act solely in the interest of justice and not for personal benefit, he should be ineligible for appointment or election to Federal office for a period of 2 years after his term expires or he resigns or is removed.

Crucial to the independence of the Public Attorney is the appointing authority. If the appointing authority is vested in the President or the Attorney General (who is responsible to the President), the appearance of political influence would remain even if the Public Attorney has an extended tenure. The argument in favor of presidential appointment is that criminal prosecution is an executive function and there is a presumption of regularity respecting the exercise

<sup>4</sup> When Dwayne Andreas attacked the jurisdiction of Special Prosecutor Cox to investigate a campaign violation that allegedly occurred during the 1968 election, a District Court in Minnesota promptly decided the jurisdictional issue in favor of the Special Prosecutor. See *United States v. Andreas*, 4-73-CR. 201 (D. Minn. 1973).

of Presidential power that should not be disregarded because of the unique abuses of Watergate. But Watergate at least teaches that the abuse of power must be anticipated. The committee's recommendation that responsibility for appointment of the Public Attorney should rest with the judicial rather than with the executive would establish a check against future abuse of power.

The Constitution allows the vesting of the appointment power in others besides the Chief Executive. Article II, section 2, paragraph 2, cl. 2, provides:

. . . [T]he Congress may by Law vest the appointment of such inferior Officers, as they think proper, in the President alone, in the *Courts of Law*, or in the Heads of Departments.  
[Emphasis added.]

The few cases interpreting this clause support a plan by which the Public Attorney is appointed by the courts of law.

The leading case is *Ex Parte Siebold*, 100 U.S. 371 (1879). Congress, pursuant to the Enforcement Acts of 1870 and 1871, vested the appointment of election supervisors in the circuit courts. The Supreme Court upheld the constitutionality of this appointment power, observing that there could be other appointments which Congress might want a court to make, such as a marshal. "The marshal is preeminently the officer of the courts . . ." *Id.* at 397. Apparently, the only limitation on the courts' appointment power is that the office involved must not be of "such incongruity [to the judicial function] as to excuse the courts from . . . performance [of the appointing function], or to render their acts void." *Id.* at 398. Since a prosecutor is more an officer of the court than a marshal or election supervisor, it is difficult to contend that the appointment of a Public Attorney is "incongruous" to the judicial function.

The district court for the District of Columbia relied heavily on *Ex Parte Siebold* in upholding the constitutionality of a provision of the D.C. Code which required the members of the Board of Education to be appointed by the judges of that court. *Hobson v. Hansen*, 265 F. Supp. 902 (D.D.C. 1967).<sup>5</sup> The court read the congruity requirement of *Ex Parte Siebold* narrowly:

The limitation which is referred to in *Siebold* is not an affirmative requirement that the duty of the officer be related to the administration of justice. It is a negative requirement that the duty may not have "such incongruity" with the judicial function as would void the power sought to be conferred. *Id.* at 913.

In short, given the clear congruity between the public attorney's tasks and the judicial function, it should be constitutional for the Congress to vest the appointment power in the judicial branch. See also *Rice v. Ames*, 180 U.S. 371 (1901) (Congress has power to authorize circuit courts to appoint commissioners to handle extradition matters); *Russell v. Thomas*, 21 Fed. Cases 12, 162 (1874) (Congress has power to authorize courts to appoint U.S. Commissioners of insol-

<sup>5</sup> *Hobson* also relied on the plenary power of Congress to legislate for the District. Yet it seems clear that its statement on the reach of art. II, sec. 2, cl. 2, should be regarded as at least an alternative holding. See *Id.* at 911: "[W]e could rest alone upon art. I, but sec. 31-301 gains support also from art. II § 2, cl. 2, of the Constitution."



veney); *Birch v. Steele*, 165 F. 577 (5th Cir. 1908) (Congress has power to authorize courts to appoint referees in bankruptcy).<sup>6</sup>

While it is thus constitutional to vest the appointment of a Public Attorney in the judicial branch, the question remains as to what part of the judicial branch should have this power. It would be a safer constitutional scheme if the appointing authority were in no way involved in hearing the cases to be prosecuted by the Public Attorney. If a district judge, for example, was directly responsible for appointing a Public Attorney to prosecute certain individuals before that same district judge, questions respecting an appearance of partiality and the lack of due process might be raised. In *Hobson v. Hansen*, 265 F. Supp. 902 (D.D.C. 1967), the court recognized possible due process problems, but stated that the

... official act of participating in the selection of Board members does not in and of itself preclude on due process grounds the ability of the judge to decide fairly the merits of litigation challenging the validity of the performance by a Board member of his duties as such. If in a particular case such a challenge were made its soundness on due process grounds would depend on the circumstances bearing thereon and not on the mere fact that the judge had performed the duty reposed upon him by Congress in sec. 31-101. 265 F. Supp. at 918.

The possible problems raised in *Hobson* were also discussed in *United States v. Solomon*, 216 F. Supp. 835 (S.D.N.Y. 1963). The *Solomon* court upheld the validity of 28 U.S.C. § 506 (now 28 U.S.C. § 546) which permitted the district court to appoint a U.S. attorney when a vacancy occurs to serve until that vacancy is filled by the President. But the court emphasized that the judicial appointment was temporary in holding that the "statutory scheme for the temporary appointment by the judiciary of the U.S. attorney comports in all respects with due process of law." *Id.* at 843. The court was apparently concerned that, if it also had the power to remove the prosecutor it appointed, there might be a "nexus between court and prosecutor too close to comport with due process." Although the concerns expressed in *Solomon* were dictum, it would be the wiser course to avoid an appointment procedure which would involve active judges who might hear cases brought by a prosecutor they appointed and could remove.<sup>7</sup>

To avoid these constitutional problems and to create an office of Public Attorney that is not only truly independent but also appears truly independent, the Congress should vest the appointment power as follows: The Chief Justice should be given the power and duty to select three retired circuit court judges who, in turn, would appoint the public attorney. After the Chief Justice makes the initial appointment of the three circuit court judges, his responsibilities would be ended; the three retired circuit court judges—who would not sit on

<sup>6</sup> It is of interest that in some States, e.g., Connecticut, the courts generally appoint prosecutors. 51 Conn. Gen. Stats., sec. 175. And Federal courts have long appointed defense counsel for indigents.

<sup>7</sup> See also *Nader v. Bork*, C.A. 1954-73 (D.D.C. Nov. 14, 1973), where the court, in opposing congressional proposals to have the courts appoint a special prosecutor for Watergate matters, stated in obvious dictum that the courts "must remain neutral. Their duties are not prosecutorial." (File Opinion at 10). We do not suggest that courts be given prosecutorial duties. As *Hobson v. Hansen*, 265 F. Supp. 902 (D.D.C. 1967) made clear, the appointing of an election supervisor is not the performance by the court of the functions of election supervisor. *Id.* at 913.

any cases, either at trial or in an appellate capacity, in which the Public Attorney's office was involved—would make the actual appointment, which would be subject to confirmation by the Senate. The Public Attorney could be removed only by the three retired circuit court judges and only upon a finding of gross improprieties. At the end of the 5-year period, the Chief Justice would appoint (or reappoint) three retired circuit court judges and they, in turn, would choose a new Public Attorney, or reappoint the outgoing Public Attorney for one additional term only.<sup>8</sup>

Although Canon 5(g) of the Code of Judicial Conduct discourages extra-judicial assignments in controversial matters, it does permit assignments dealing with "the administration of justice." Thus, the acceptance of an appointment by a senior judge to a Public Attorney Supervisory Committee would be permissible under the canons. A senior judge accepting the appointment would not receive any additional salary because of such service.

**2. The committee recommends that, in connection with its revision of the Federal Criminal Code, Congress should treat as a separate Federal offense, with separate penalties, any felony defined in the code (except those felonies that specifically relate to Federal elections) that is committed with the purpose of interfering with or affecting the outcome of a Federal election or nominating process.**

The purpose of this proposal is primarily to establish, as a separate Federal crime, the commission of certain traditionally common law offenses such as burglary and larceny where these crimes are committed with the intent of interfering with or affecting a Federal election or nominating process. To understand this proposal, it is necessary to comprehend the workings of the three main proposed revisions of the criminal code now before Congress—H.R. 10047 (the Brown Commission proposal) S. 1400 (the administration's proposal) and S. 1 (the proposal of the staff of the Criminal Procedure Subcommittee of the Senate Judiciary Committee).

Each of these proposals would make certain traditional common law offenses, usually prosecutable only in the State courts, Federal offenses in certain circumstances—for example, if the victim is a Federal public servant or if the property that is the subject of the offense is federally owned. Each proposal defines the various common law crimes that will become Federal crimes triable in Federal courts in the proper circumstances. In each case the list is lengthy.

As noted, the proposal the committee offers is to make various common law crimes Federal offenses prosecutable in Federal courts when the offenses are conducted with the intent to interfere with or affect a Federal election. It would thus add another jurisdictional base for the Federal courts to those already suggested by the existing revisions—for example, that the crime is against a Federal employee. The proposal also establishes a separate offense all other violations of Federal criminal law (except those laws that specifically relate to Federal elections) where the offense is committed with intent to interfere with or affect a Federal election or nominating process.

<sup>8</sup> Senior circuit judges, with salaries fixed for life, are, of course, totally independent from the other two branches of government.

The committee feels that the amendment it proposes is needed. Under existing law, the DNC burglary and the break-in of Dr. Fielding's office could not be tried in a U.S. district court under a burglary indictment. The defendants in the Fielding break-in matter were prosecuted on conspiracy and perjury counts.

Adoption of the above proposal would not add redundancy to the criminal law. Rather, it would allow the prosecution of crimes in which there is a Federal interest in Federal courts. And it would allow the prosecutor to present an election related offense to the jury in proper perspective—that is, as an attempt to violate the integrity of a Federal election or nominating process. Such a statute would carry appropriate penalties to indicate the gravity of corrupt interference with the Federal electoral process (for example, a fine up to \$25,000 and/or imprisonment up to 5 years).

**3. The committee recommends that Congress enact legislation making it unlawful for any employee in the Executive Office of the President, or assigned to the White House, directly or indirectly to authorize or engage in any investigative or intelligence gathering activity concerning national or domestic security not authorized by Congress.**

The evidence received concerning the establishment, by direction of the President, of a special investigative unit in the White House (the Plumbers) and the operations of the Plumbers illustrates the danger to individual rights presented by such secret investigative activity.

By statute Congress has already established various professional investigative agencies to serve the Executive's legitimate investigative needs; for example, the CIA, the FBI, the Secret Service. These bodies are wisely restricted in their jurisdiction and authority by stringent statutory provisions and are answerable not only to the Executive but also to special oversight committees of Congress. Thus our free society is served, not controlled, by its police agencies. No President should be allowed to circumvent these agencies and erect a secret White House investigative operation such as the Plumbers not subject to statutory controls and congressional oversight. If any agency charged with investigative efforts is deficient, the President should reform it, not create a substitute.

Under the proposed recommendation it would be a criminal offense for anyone in the White House or the Executive Office of the President to perform investigative or police functions relating to internal or national security matters, unless existing statutory law already authorizes such functions (as with the Secret Service). Similarly, it would be illegal for anyone in the Executive Office of the President or on the White House staff to employ any person to conduct such functions.<sup>9</sup>

**4. The committee recommends that the appropriate congressional oversight committees should more closely supervise the operations of the intelligence and law enforcement "community." In particular, these committees should continually examine the**

<sup>9</sup> This proposal would not restrain otherwise lawful investigations carried out for political purposes—*e.g.*, to discover the foibles of one's political opponents.

**relations between Federal law enforcement and intelligence agencies and the White House, and promptly determine if any revision of law is necessary relating to the jurisdiction or activities of these agencies.**

From its beginning, the Central Intelligence Agency has been prohibited from performing police and internal security functions within the United States. Thus, 50 U.S.C. sec. 403(d) (3) explicitly provides:

That the Agency shall have no police, subpoena, law enforcement powers, or internal-security functions . . .

Notwithstanding this clear and longstanding prohibition, the Select Committee produced evidence that the White House sought and achieved CIA aid for the Plumbers and unsuccessfully sought to involve the CIA in the Watergate coverup. These efforts on the part of the White House underline the need for constant and vigorous congressional oversight. The congressional committees charged with responsibility for the CIA should thus consider the need for hearings to determine if more explicit statutory language would be useful to restrain the CIA to its legitimate sphere of operation.

As for law enforcement agencies, testimony of the former Acting Director of the Federal Bureau of Investigation, Patrick Gray, and others, regarding White House attempts to interfere with the FBI's investigation of the Watergate affair, as well as evidence received by the committee as to efforts by the White House to influence IRS operations, indicate that similar oversight functions should be strengthened with regard to the FBI, IRS, and other similar agencies.

**5. The committee recommends that Congress amend:**

**(1) The false declaration prohibition of 18 U.S.C. sec. 1623 to make it equally applicable to congressional proceedings under oath.**

**(2) Section 1621 of Title 18 to provide that, once the oath has been properly administered by a Congressman in a public or private congressional hearing, it is not a defense to a perjury charge that subsequently a quorum was absent or no Congressman was present when the perjurious statement was made.**

(1) The false declaration prohibition of 18 U.S.C. sec. 1623(c) in effect provides that, to sustain a perjury conviction regarding statements made under oath to a court or grand jury, or in a civil deposition, the Government must only show that two statements made under oath in any of these forums are inconsistent.<sup>10</sup> This provision should be made equally applicable to congressional proceedings under oath. There is no

<sup>10</sup> This provision reads: An indictment or information for violation of this section alleging that, in any proceedings before or ancillary to any court or grand jury of the United States, the defendant under oath has knowingly made two or more declarations, which are inconsistent to the degree that one of them is necessarily false, need not specify which declaration is false if—

(1) each declaration was material to the point in question, and

(2) each declaration was made within the period of the statute of limitations for the offense charged under this section.

In any prosecution under this section, the falsity of a declaration set forth in the indictment of information shall be established sufficient for conviction by proof that the defendant while under oath made irreconcilably contradictory declarations material to the point in question in any proceeding before or ancillary to any court or grand jury. It shall be a defense to an indictment or information made pursuant to the first sentence of this subsection that the defendant at the time he made each declaration believed the declaration was true.

policy justification for granting proceedings in other forums a greater protection from perjury than given congressional investigations.

(2) Under section 1621 of title 18, as interpreted by the courts, it appears that conviction for perjury before a congressional body will not lie in the absence of a quorum when the offending statement was made. See *Christoffel v. United States*, 338 U.S. 84 (1949) which concerned a House subcommittee and the analogous District of Columbia perjury statute, D.C. Code section 22-2501. The Select Committee has found it necessary to conduct numerous executive sessions under oath where a Senator was not present for the entire hearing. To require a Senator or Congressman to be present at all times during executive sessions stifles vigorous, far-reaching investigations because there is simply not enough congressional time available.

Section 1621 of title 18 should thus be amended to provide that, in regard to a perjury charge relating to congressional testimony under oath, it is not a defense that there was no quorum<sup>11</sup> or no Congressman present when the perjurious statement was made. When a witness has been placed under oath, he is on fair notice that his testimony must be truthful. A civil litigant can depose a witness, under penalty of perjury, without a judge present and the law should not require that, in order to sustain a perjury charge regarding congressional testimony, a Congressman be present. The fact that a Congressman is required to place a witness under oath should provide ample protection against possible harassment by staff investigators. See 2 U.S.C. sec. 191 ("Oath to Witnesses").<sup>12</sup>

The present recommendation is not intended to require a witness to answer questions when a quorum of the congressional committee is not present. It relates only to a witness who has been sworn when a quorum is present and who chooses to respond to questions in the absence of a quorum.

**6. The committee recommends that the Congress refrain from adopting proposed revisions of title 18 which would unjustifiably broaden the present defenses to criminal charges of official mistake of law and execution of public duty. The committee supports the predominant rule of law adopted in the American Law Institute's model penal code that any reliance on a mistake of law or superior orders must be objectively reasonable to constitute a valid defense.**

There are several proposals before the Congress—H.R. 10047 (secs. 521 and 532) and S. 1 (secs. 303 and 1-306(b))—which would expand the present common law defense of official mistake of law and execution of public duty. Under existing law, a public official, who can show that conduct taken in the course of his duties resulted from an objectively reasonable mistake of law or reliance upon superior orders, has a valid defense to a criminal charge relating to that conduct. See Perkins on Criminal Law (2 ed. 1969), pp. 921-2. The proposed drafts

<sup>11</sup> Present Select Committee rules provide that a quorum for the purposes of taking testimony and receiving evidence is one Senator. Rule 5, Select Committee Rules of Procedure. See appendix of legal documents, p. 47.

<sup>12</sup> If the hearing is recessed to another date, a Congressman's further presence would not be required since the witness will already be sworn, but the witness cannot be required to attend a recessed session unless the committee issues a new subpoena. Moreover, normally a witness will not be held in contempt for failure to answer a question unless the full House of Congress votes to initiate the statutory contempt procedure found in 2 U.S.C. 194.

would apparently erect as a defense to a criminal charge a subjective, good faith reliance by a public official on an official grant of permission or interpretation of the law. Under the proposals, it appears that the defense would still lie even if the official grant of permission or interpretation of the law were oral and secret. These proposed revisions were drafted before the Select Committee's hearings, which presented substantial relevant evidence bearing on this issue.

The Select Committee rejects the broadening of this defense incorporated in the proposals now before the Congress. The committee recognizes that the proposed revisions are based on extensive studies of the present criminal law that range far beyond the scope of the committee's own investigation. However, based on its experience, the committee believes that the present law, as reflected in the American Law Institute's model penal code, is adequate to meet all legitimate claims of official mistake of law or public duty and should not be expanded.

**7. The committee recommends that the appropriate committees of Congress study and reconsider title III of the Omnibus Crime and Safe Streets Act of 1968 for the purpose of determining whether the electronic surveillance provisions contained in that act require revision or amendment.**

The committee's investigation has revealed incidents of unlawful violations of privacy through electronic surveillance, some of which were committed, directly or indirectly, under the auspices of the entities of government in whose trust Congress placed the protection of privacy by the provisions of title III of the Safe Streets Act of 1968. The restrictions contained in that act have proved inadequate to protect individuals against unjustified invasions of privacy. A thorough reevaluation of this legislation, including a factual investigation of Federal wiretapping practices, is necessary.

Under the 1968 act a special commission was to be appointed by the President 5 years after the effective date of the act. The President has now appointed this commission for the purpose of evaluating the strengths and deficiencies of this legislation. However, the committee believes that in light of the facts revealed in its investigation of a scandal in the executive branch unforeseen by Congress when it enacted the 1968 act, it is essential that the appropriate committees of Congress make their own investigations and evaluations of the experience under the new Federal electronic eavesdropping law. It appears to be inappropriate to rely solely on a Presidential Commission which must report to the same administration under which violations of privacy took place.

An important issue for consideration is whether national security electronic surveillance should require prior court approval. Both the Supreme Court and the Congress have left this matter unresolved. In *United States v. U.S. District Court*, 407 U.S. 297 (1972), the Court firmly rejected the Government's claim that warrantless electronic searches in domestic security cases were a reasonable exercise of Presidential power. Justice Lewis Powell's opinion for a unanimous Supreme Court concluded that "prior judicial approval is required" for domestic security surveillance. The issue arose in a case in which the Attorney General had authorized wiretaps "to gather intelligence information deemed necessary to protect the Nation from attempts of

domestic organizations to attack and subvert the existing structure of the Government."

The Court said that, although the fourth amendment's requirement of a warrant before a search is not absolute, the prior judgment of an independent magistrate is the norm. "Fourth amendment freedoms cannot be properly guaranteed if domestic security surveillances may be conducted solely within the discretion of the executive branch." Although Justice Powell carefully limited his opinion to "the domestic aspects of national security" and expressed no opinion on "the issues which may be involved with respect to activities of foreign powers or their agents," he did state: "Nor do we believe prior judicial approval will fracture the secrecy essential to official intelligence gathering. \* \* \* *Judges may be counted upon to be especially conscious of security requirements in national security cases.*" [Emphasis added.] (But see, *Laird v. Tatum*, 408 U.S. 1 (1972), in which the Supreme Court, 5 to 4, failed to find a justifiable controversy so as to permit a decision on the merits of the Army's surveillance of civilian political activity.)

In view of the fact that the Court has left unanswered the question whether warrants are necessary with respect to intelligence regarding foreign activities, it is clear that Congress should address itself to the question whether prior judicial approval should be required for all wiretaps and other electronic surveillance. The Select Committee so recommends. In the wiretap case just discussed, Justice Powell suggested that "Congress may wish to consider protective standards (for foreign intelligence wiretaps) which differ from those already prescribed for specified crimes in title III (of the 1968 Crime Control Act). Different standards may be compatible with the fourth amendment if they are reasonable both in relation to the legitimate need of Government for intelligence information and the protected rights of our citizens."

While the Supreme Court has not ruled on the validity of warrantless wiretaps not involving U.S. citizens to achieve foreign intelligence, at least two courts of appeals have held that such surveillance does not violate the fourth amendment. See *United States v. Brown*, 484 F. 2d 418 (5th Cir. 1973); *United States v. Dellinger*, 472 F. 2d 340 (7th Cir. 1972).

There is no justification totally to prohibit the Executive from conducting such surveillance. But when it is done within the United States it is preferable that a warrant be obtained prior to the wiretap. Congress should take cognizance of Justice Powell's invitation in the wiretap case and address itself to this issue.

Suitable legislation should establish procedures permitting the courts under designated standards to authorize surveillance of foreign powers. A basic standard that could be employed is whether there is reason to believe that information of importance to the Nation's security would be obtained.

To obviate possible disclosure of such activities, Congress could establish special procedures to be followed. This could be done easily and effectively by a provision that all such warrants be issued by a single judge—perhaps the Chief Judge of the U.S. District Court for the District of Columbia. Staff work could be performed by the Department of Justice, so that only the judge himself need see the

warrant and supporting material. And special procedures should be established to protect the rights of American citizens who might be overheard. In net, the need is for prior judicial approval under guidelines that will protect national security.

There should be no constitutional barrier to such legislation. As Justice White said in his concurring opinion in the wiretap case, "the United States does not claim that Congress is powerless to require warrants for surveillance which the President otherwise would not be barred by the fourth amendment from undertaking without a warrant." In fact, the wiretap case is a direct holding by the Supreme Court that Congress can limit the Executive's power to tap without a warrant. In a footnote in Justice White's opinion he indicated that the Justice Department, speaking through Assistant Attorney General Robert Mardian, accepted the view that Congress does have such power.



## CHAPTER 2

### Campaign Practices

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#### INTRODUCTION

The campaign to reelect President Nixon in 1972 was expensive, intense, and long. It began in late March 1969, soon after the President's inauguration, when John Ehrlichman, counsel to the President, hired Jack Caulfield to gather political intelligence and derogatory information on individuals considered to be unfriendly to the new administration. Caulfield and Ehrlichman interviewed a former New York City policeman, Anthony T. Ulasewicz, in late May 1969 and hired him to conduct investigations. Ulasewicz was paid secretly by Herbert Kalmbach, the President's personal attorney, from an unused reserve of 1968 Nixon campaign funds. The establishment of an offensive intelligence-gathering capability in the White House occurred, then, before many members of the administration had even moved into their Washington offices. Other intelligence-gathering capabilities later initiated included the Plumbers, the efforts of Colson and Hunt, the activities of Donald Segretti and others, and the Gemstone conspiracy.

In the Caulfield-Ulasewicz operation, as in several other examples of campaign practices investigated by the Select Committee, serious questions are raised as to what the President knew, approved or condoned, and what his ethical and legal responsibilities should be for the campaign conduct of his subordinates.

This report focuses on the Presidential campaign practices that raise substantial questions of legality, propriety, or ethics and that may, in the words of S. Res. 60, "... indicate the necessity or desirability . . . of new congressional legislation to safeguard the electoral process by which the President of the United States is chosen." [Sec. 1(a)]

The report is not an exhaustive compendium of every campaign practice investigated by the Select Committee. Rather, it is a selection of those incidents that raise particularly serious questions of campaign propriety and ethics that, consequently, frame most clearly questions about the advantages and disadvantages of remedial legislation.

Running through the various topics raised below are several themes that merit serious discussion by Congress, for they raise fundamental questions about how our system of free elections should be run. First, the 1972 Presidential campaign was replete with abuses of positions, power, and prerogatives, particularly by White House personnel. The political advantages held by an incumbent President are immense, and they were constantly used and abused by this administration. A corollary to the abuse of Presidential incumbency for political gain is the considerable extent to which objectionable campaign practices were

conceived, encouraged, and controlled by high-level Presidential aides. This was true from the early days of the first term, when there was no campaign organization, and it continued to be so through the 1972 election.

Another important theme is the misuse of large amounts of money, especially difficult-to-trace cash that was held in secret places in the White House and elsewhere. The problem with cash in political campaigns is not, of course, unique to the campaign practices facet of the Select Committee's investigation; cash contributions and funds played key roles in virtually all aspects of the 1972 Presidential election. The misuse of cash in various campaign practices, as in other areas, demonstrates the need for strict regulation of its use in political campaigns.

Another recurring theme was the search for intelligence information on political opponents which was initiated with the hiring of Caulfield and Ulasewicz. This intelligence-gathering is central to the first part of this report: White House-Inspired Political Activities, 1968-71. In addition to Caulfield and Ulasewicz, this part summarizes the campaign activities of E. Howard Hunt, the Plumbers, and the various improper uses and attempted uses of Federal agencies by White House staff members. For example, evidence shows that the White House attempted to use the Internal Revenue Service to harass persons perceived as political "enemies".

In addition, some of the public relations efforts which were initiated in the White House led to practices which were deceptive and misleading to the public.

The White House also attempted to mislead and deceive the press on numerous occasions. While legislation in this area is inadvisable, examples of White House attempts to mislead the press were quite frequent during the last month of the 1972 campaign and help to explain the attitude within the White House and some of the tactics employed to reelect Mr. Nixon.

With the above areas as background, the second half of the report outlines what happened in the campaign itself, beginning with the strategy of the campaign to reelect President Nixon. A basic theme of this strategy was to attack Democratic opponents and prospective opponents frequently during the primaries.

Such an "attack strategy" was a key ingredient in the 1972 Nixon campaign. Although many people contributed to this strategy, its broad outlines were best explained by White House speechwriter Patrick Buchanan, whose memorandums are summarized below in this report.

The strategy, though not improper in itself, was ultimately converted by others into gross abuses and unethical manipulations of the electoral process by persons who had little political experience, and by persons, including some with considerable political experience, who had little respect for fair play in elections. The activities of Segretti and others—and of their superiors in the White House and at the Committee To Re-Elect the President—are detailed below in this report. Their activities consisted primarily of surreptitious information gathering and disruption of Democratic campaigns.

Finally, the report discusses allegations of unfair campaign practices directed at President Nixon's campaign. The staff did uncover some instances of improper activity directed at President Nixon's reelection

campaign. The results of these investigations, however, show no pattern of illegal, improper, or unethical activities carried out or condoned by any Democratic aspirant or Democratic campaign organization.

## I. WHITE HOUSE-INSPIRED POLITICAL ACTIVITIES, 1968-71

### A. CAULFIELD AND ULASEWICZ

From the time Richard Nixon was inaugurated President in January 1969, the White House exhibited a strong desire for political intelligence that helped lead to the events in the campaign of 1972 which have been under investigation by the Select Committee.

Shortly after President Nixon entered the White House on January 21, 1969, the decision was made in the White House to establish an in-house investigative capability that could be used by the President's staff for obtaining sensitive political information. Jack Caulfield was chosen to perform this function. Following a career in the New York City Police Department, Caulfield was hired in May 1968 by H. R. Halderman to "serve in the security area,"<sup>1</sup> during the 1968 campaign. Caulfield was responsible for securing staff quarters and working areas of the Nixon traveling campaign in 1968.

Following the election, Caulfield was interviewed and subsequently turned down by John Mitchell for the position of Chief U.S. Marshal.<sup>2</sup> Subsequently in late March 1969, Caulfield met with John Ehrlichman, at his White House office, and Ehrlichman asked if Caulfield were interested in setting up a private security entity in Washington, D.C. to provide investigative support for the White House.<sup>3</sup> The next day Caulfield called Ehrlichman with a counterproposal that he join the White House staff under Ehrlichman and, "besides providing liaison functions with the various law enforcement agencies, thereby be available to process any investigative requests from the White House."<sup>4</sup> Ehrlichman agreed, and Caulfield was placed on the White House payroll.

Caulfield told Ehrlichman that he intended to use the services of Anthony Ulasewicz, a detective with the New York City Police Department who was nearing retirement. Ehrlichman wanted to meet Ulasewicz, and so in May 1969 Ulasewicz was interviewed by Ehrlichman and Caulfield in the VIP lounge at the American Airlines terminal of New York's La Guardia Airport. Ehrlichman explained to Ulasewicz that he wanted discreet investigations done on certain political figures.<sup>5</sup> During their brief conversation, Ehrlichman agreed to a 1-year contract for Ulasewicz at \$22,000 a year plus expenses, and Ulasewicz explained that he wanted to report to only one individual and to make no written reports of any kind.

Following the meeting, Ehrlichman told Herbert Kalmbach, the President's personal attorney, to make arrangements to put Ulasewicz on the payroll. Ulasewicz was paid with surplus funds from the 1968 campaign which were held in trustee accounts by Kalmbach.

<sup>1</sup> 1 *Hearings* 250.

<sup>2</sup> 1 *Hearings* 251.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

<sup>5</sup> See Ulasewicz interview, May 8, 1973, pp. 2-3.

At 8 a.m., Sunday, June 29, 1969, Herbert Kalmbach met Jack Caulfield and Tony Ulasewicz at the Madison Hotel in Washington, D.C. Ulasewicz told Kalmbach he would use the alias Edward T. Stanley in his work<sup>6</sup> and Kalmbach agreed to send salary and expense checks to Ulasewicz' home twice a month.

Samples of checks used to pay Ulasewicz are attached to this report.<sup>7</sup> During the next 3 years Kalmbach paid more than \$130,000 for the Caulfield-Ulasewicz operation.<sup>8</sup>

Ulasewicz' complete travel records are available in the files of the committee and a summary chronology of Ulasewicz' travels is appended to this report.<sup>9</sup> Ulasewicz received all investigative assignments from Caulfield orally, whom he contacted discreetly by calling under the pseudonym of Mr. Stanley so that no one at the White House would know his true identity.

On July 8, 1969, Ulasewicz spoke with Kalmbach by telephone and agreed to use his own American Express card for air travel and other necessary expenses. Kalmbach directed Ulasewicz to apply for a second American Express card in the name of Edward T. Stanley, and Kalmbach agreed to guarantee payment on that account. Kalmbach also agreed to obtain telephone credit cards for Ulasewicz in his real name and in the name of Edward T. Stanley,<sup>10</sup> thus allowing Ulasewicz to maintain his secrecy during the course of his upcoming investigations and inquiries.

At about 1 a.m. on Saturday, July 19, 1969, Senator Edward Kennedy was involved in an automobile accident at Chappaquiddick, Mass. Later that morning, as news reports of the accident reached the public, Caulfield was directed by Ehrlichman to send Ulasewicz to the scene of the accident as soon as possible. Ulasewicz flew to Boston on the Eastern Airlines shuttle on July 19 and rented a car for the trip to Martha's Vineyard and Chappaquiddick. Ulasewicz spent 4 days in the area on this first visit and reported back continually to Jack Caulfield in the White House, who passed the information on to Ehrlichman and others as it developed. Ulasewicz spent a good portion of the remaining summer and much of the fall of 1969 at Chappaquiddick trying to dig up politically valuable information from Senator Kennedy's accident.

Caulfield also gave Ulasewicz a variety of other assignments after the summer of 1969. During the next 3 years, Ulasewicz traveled to 23 States gathering information on assignments from Caulfield. In 1969 and 1970 Caulfield stated that he got his directions from Ehrlichman and sometimes from other high-ranking White House officials, such as H. R. Haldeman, Lyn Nofziger, and occasionally Charles Colson.

While Ulasewicz' investigations covered a variety of political opponents of the administration and potential threats to the President's reelections in 1972 much of his attention focused on Senator Kennedy, Senator Muskie, Larry O'Brien, and columnist Jack Anderson. A list

<sup>6</sup> See Kalmbach diary, June 29, 1969, exhibit 1, p. 214.

<sup>7</sup> See exhibit 2, p. 215.

<sup>8</sup> Compiled by the committee from subpoenaed records.

<sup>9</sup> This chronology was based on the credit records and travel records. See exhibit 3, p. 217.

<sup>10</sup> See memorandum of July 8, 1969, of Herbert W. Kalmbach attached as exhibit 4, p. 231.

of the investigations and background checks conducted by Anthony Ulasewicz at the direction of Jack Caulfield is attached to this report.<sup>11</sup>

After Senator Muskie became the leading Democratic contender, immediately following the 1970 congressional elections, many of Ulasewicz' investigations were directed toward discovering valuable political information on Senator Muskie.<sup>12</sup>

Ulasewicz usually worked alone on the assignments he was given by Caulfield. However, in December 1971, Anthony LaRocco, a former New York City police detective was hired to assist Ulasewicz.<sup>13</sup>

LaRocco assisted Ulasewicz in four or five investigations in New York City from December 1971 until the third week in January 1972 when Ulasewicz informed LaRocco that the operation was terminated. LaRocco received a total of about \$1,500 for his work on behalf of the White House.<sup>14</sup>

### 1. ELECTRONIC SURVEILLANCE

There has been no evidence presented to the Senate Select Committee which indicates that either Ulasewicz or LaRocco engaged in any electronic surveillance in their assignments for the White House. However, Jack Caulfield was involved twice in the implementation and monitoring of electronic surveillance.

The first occasion was in June 1969 when Ehrlichman called Caulfield into his office and said that there was an urgent need for a national security wiretap on the telephone of columnist Joseph Kraft.<sup>15</sup> Caulfield said that Ehrlichman told him that he did not want to go through the FBI, since it was a sieve. Ehrlichman pressed Caulfield to place the tap on as soon as possible. Ehrlichman testified that he was sure that he discussed that tap with President Nixon.<sup>16</sup>

Caulfield contacted Jack Ragan, a former FBI agent and friend from the 1968 campaign for whom Caulfield had found a job at the Republican National Committee in 1969. Caulfield told Ragan he had a directive from Ehrlichman to place a wiretap on Kraft's phone because of a matter involving "high priority national security."<sup>17</sup> Ragan and Caulfield drove to Kraft's residence and concluded from observation of the neighborhood and the location of the telephone lines that it could be a very difficult tap to install. Caulfield went back to Ehrlichman and explained the serious problems they would encounter in attempting to install the tap. Caulfield testified that Ehrlichman told him that the tap had to be installed.<sup>18</sup>

Ragan told Caulfield he could not implement the wiretap unless he had the pairs and cable numbers of the telephone lines in the Kraft home. Caulfield agreed to obtain the information and did so by requesting it from a friend of his in the Secret Service.<sup>19</sup> Caulfield explained to the individual in the Secret Service that he needed the information as a matter of national security. The information was obtained for Caulfield who in turn gave it to Ragan.<sup>20</sup>

<sup>11</sup> See exhibit 5, p. 232. This list was compiled from interviews with Ulasewicz, Caulfield, John Dean and Tony LaRocco.

<sup>12</sup> These investigations are listed at numbers 57 through 61 of exhibit 5.

<sup>13</sup> Interview with LaRocco, September 21, 1973, p. 1.

<sup>14</sup> *Ibid.*

<sup>15</sup> 21 *Hearings* 9687. At the time of this wiretap, neither the Supreme Court nor any Act of Congress prohibited national security wiretaps without prior judicial authorization.

<sup>16</sup> 6 *Hearings* 2535.

<sup>17</sup> 21 *Hearings* 9698.

<sup>18</sup> 21 *Hearings* 9690.

<sup>19</sup> 21 *Hearings* 9690-91; name to be submitted to Senator Ervin.

<sup>20</sup> 21 *Hearings* 9691.

Ragan also asked Caulfield about acquiring appropriate credentials from the telephone company to protect himself while implementing the wiretap and to insure the discretion of the assignment. Caulfield discussed the problem with Ehrlichman, who arranged for Caulfield to speak with John Davies of the White House staff.<sup>21</sup>

Caulfield told Davies he needed a telephone installer's card for a job concerning a "national security matter" he had been given by Ehrlichman.<sup>22</sup> Caulfield had the impression that Ehrlichman and Davies had already talked about the matter. Davies did provide a telephone installer's card to Caulfield, who in turn passed the card on to Ragan.

About 1 week or 10 days after he made his initial request to Caulfield to implement the wiretap, Ehrlichman called Caulfield and directed him to desist from implementing the wiretap because J. Edgar Hoover would take care of it. Ehrlichman testified that the wiretap in 1969 "never happened."<sup>23</sup> Caulfield then called Ragan to direct him not to implement the tap, but Ragan told him, "it's done."<sup>24</sup> Caulfield testified that Ragan and an unidentified friend of his from New York had already come to Washington and installed a listening device on a telephone pole in the rear of Kraft's residence.<sup>25</sup> Caulfield met with Ragan at the Congressional Hotel and told him he had been directed by Ehrlichman not to place the wiretap. Ragan explained to Caulfield how he and his friend had placed the tap and gave Caulfield a tape which allegedly contained some conversation from Kraft's telephone.<sup>26</sup> Ragan told Caulfield that Kraft's voice was not on the tape and that the overheard conversation may have involved a maid.

Caulfield testified that he took the tape from Ragan to his office, where he ran out about 40 or 50 feet of it and destroyed it by placing it in his "burn bag." Caulfield kept the remaining tape in his office for about a month or two and then destroyed it and the reel itself by placing them in the burn bag in the White House.<sup>27</sup>

Caulfield claimed that neither he nor Ehrlichman nor anyone else ever listened to the tape that Ragan gave him. Ragan was paid no money for his work in placing the wiretap.

Ragan, Ulasewicz, and Caulfield continued to be social friends after this incident in 1969, lunching together on numerous occasions when Ragan came to Washington. During 1969 and 1970, Ragan gave approximately 8 checks to Caulfield totaling about \$800. While Caulfield had no recollection of the purpose of these payments, Ragan said they were to obtain information from police departments.<sup>28</sup>

Finally, there is no evidence at the present which indicates that Caulfield had Ragan conduct any other electronic surveillance. Ragan did, on occasion, ask Ulasewicz if he were interested in performing jobs for Ragan, but no actual work assignments developed from these suggestions.<sup>29</sup>

The second occasion when Caulfield was involved in electronic surveillance came in the fall of 1970 when Ehrlichman requested Caul-

<sup>21</sup> 21 *Hearings* 9692.

<sup>22</sup> 21 *Hearings* 9693.

<sup>23</sup> 6 *Hearings* 2535.

<sup>24</sup> Caulfield interview, September 11, 1973, p. 3.

<sup>25</sup> 21 *Hearings* 9694.

<sup>26</sup> *Ibid.*

<sup>27</sup> 21 *Hearings* 9695.

<sup>28</sup> See Ragan interview, August 28, 1973, p. 2.

<sup>29</sup> 21 *Hearings* 9699.

field to monitor the results of the Secret Service wiretap of F. Donald Nixon. Caulfield monitored the tap for about 3 weeks before the project was terminated.<sup>30</sup> Ehrlichman refused to discuss the wiretap with the Select Committee, citing national security privilege.<sup>31</sup> The Secret Service, at the direction of the White House counsel, would not allow agents involved to testify about the matter, claiming that it fell within the "protective function" of the Secret Service and therefore was privileged.

## 2. OPERATION SANDWEDGE

In late 1970 and early 1971, Jack Caulfield began thinking about establishing a private security organization when he left the White House. In the winter and early spring of 1971, Caulfield recalled having frequent discussions about the idea with Myles Ambrose, then Commissioner of Customs.<sup>32</sup> Ambrose had discussed the idea of private security business with Mike Acree, then Assistant Commissioner of the IRS. Sometime in late 1970 or early 1971, Ambrose introduced Acree to Caulfield.<sup>33</sup>

Caulfield told Acree that Ambrose and Caulfield were planning to open a private security firm in Washington, D.C. Acree had friends at Intertel, a private security firm in Washington, and thought that such a business might be a good means of retiring from Federal service. Acree said that at no time in these early discussions did Caulfield mention anything about a "covert operation." Caulfield told Acree that Ambrose wanted to head the new organization, but that Caulfield was slowly trying to move him out of the picture.<sup>34</sup>

Sometime in the spring of 1971, Caulfield told John Dean he was thinking about leaving the White House staff to establish an investigative and security consulting corporation. Caulfield explained to Dean that the proposed firm could be operational by campaign time and could provide important help to the reelection campaign and to the Republican National Committee. Caulfield's basic idea was that the security firm would provide services for large corporations and that, with large fees from them, it would be able to provide free services to the 1972 reelection campaign. Dean advised Caulfield to secure the advice of an attorney because such a plan was filled with legal problems.<sup>35</sup>

In the meantime, Caulfield discussed his proposal seriously with Joe Woods, Mike Acree, Roger Barth, and Tony Ulasewicz. Joe Woods, the brother of Rose Mary Woods, was a friend of Caulfield's from the 1968 campaign whom Caulfield envisioned as the vice president of the new corporation who would head up the Chicago office.

Caulfield also says he discussed the proposal with Rose Mary Woods. He explained to her that he was interested in establishing a security entity and that, if he could get funding, he would be offering a principal position to her brother.<sup>36</sup> Miss Woods only recalled that Caulfield came to her and explained that he wanted to set up "sort of

<sup>30</sup> 21 *Hearings* 9700.

<sup>31</sup> Ehrlichman interview, January 10, 1974, p. 9.

<sup>32</sup> 21 *Hearings* 10342.

<sup>33</sup> Acree interview, August 1, 1973. Acree subsequently recalled his first meeting with Caulfield occurring on March 8, 1971, at the EOB. (See Acree letter, June 27, 1974.)

<sup>34</sup> *Id.* at p. 2.

<sup>35</sup> 3 *Hearings* 924.

<sup>36</sup> *Ibid.*

a PR" operation with her brother based in the Midwest. She testified she was opposed to the idea because she felt her brother was more qualified to head such a corporation than was Caulfield.<sup>37</sup> Caulfield testified that Miss Woods had general knowledge that he could obtain information of a political nature, but that he never discussed specific details of Ulasewicz' operations with her. Caulfield said he requested Miss Woods' assistance in locating Donald A. Nixon on one occasion for Tony Ulasewicz.<sup>38</sup>

Miss Woods testified that she had no knowledge that Caulfield had an independent investigative capability in the White House.<sup>39</sup>

Caulfield also talked with Ulasewicz about forming a private security business. Ulasewicz' assignments had declined as 1971 progressed, and Caulfield had often talked with Ulasewicz about entering private business when Caulfield left the Government. Caulfield envisioned Ulasewicz as head of the New York office of the new corporation, with primary responsibilities for offensive intelligence gathering. Ulasewicz subsequently rented an apartment at 321 East 48th Street (apartment 11-C), New York City, that could be used as an office for the private detective agency.<sup>40</sup>

In the late summer of 1971, Caulfield met with Acree, Barth, and Joe Woods for about 2 hours at his home to discuss the proposal.<sup>41</sup>

Following the meeting, Caulfield told Dean of the group's plans, and Dean asked Caulfield to commit the proposal to writing. Caulfield then drafted the memorandum entitled "Operation Sandwedge"<sup>42</sup> The document called for an offensive intelligence-gathering operation which would be clandestinely based in New York and would be able to infiltrate campaign organizations and headquarters with "undercover personnel."<sup>43</sup> The offensive capability would also include a "black bag" capability, "surveillance of Democratic primaries, convention, meetings, et cetera," and "derogatory information investigative capability, worldwide."<sup>44</sup>

In addition, the memorandum outlined an operating cover for the entity. The new corporation would hire itself out to large Republican corporations, whose fees would finance the clandestine and offensive capability envisioned in the memorandum. Caulfield emphasized the clandestine nature of the operation:

The offensive involvement outline above would be supported, supervised and programed by the principals, but completely disassociated (separate foolproof financing) from the corporate structure and located in New York in extreme clandestine fashion.<sup>45</sup>

<sup>37</sup> 22 *Hearings* 10243.

<sup>38</sup> 22 *Hearings* 10346.

<sup>39</sup> 22 *Hearings* 10242.

<sup>40</sup> See exhibit 6, p. 237. The apartment was also the place for a meeting on January 10, 1972, among Caulfield, Ulasewicz, and Gordon Liddy when Liddy checked up on Ulasewicz financial records (Caulfield interview, Sept. 12, 1973, p. 5).

<sup>41</sup> Woods, Barth, and Acree say that the meeting occurred at Caulfield's home. Caulfield testified that the meeting occurred at the Fairfax Country Club in Virginia. 22 *Hearings* 10349.

<sup>42</sup> See copy of the document at exhibit 7, p. 240. Caulfield recalls that the proposal was actually drafted in June 1971. Since there is no evidence that the proposal was circulated at the meeting at Caulfield's home in midsummer, Caulfield probably didn't actually write it until later in the summer.

<sup>43</sup> See exhibit 7, page 240.

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*



Caulfield noted in the memorandum that Ulasewicz would head the clandestine operation in New York, claiming that "his expertise in this area was considered the model for police departments throughout the Nation and the results certainly proved it."<sup>46</sup> Woods would be in charge of the Midwestern office of the new corporation, heading covert efforts and acting as liaison to retired FBI agents "for discreet investigative support" from the FBI. Mike Acree would provide "IRS information input" and other financial investigations that would help support the New York City operation.<sup>47</sup>

In testimony before the Select Committee, Caulfield claimed that "black bag capability" meant:

... the carrying of moneys that might be collected in a political campaign. What I meant to propose by that was that Mr. Ulasewicz and anyone else that might be connected with such a proposed undertaking would have the capability to supervise the security of the carrying of moneys which might be collected during the course of a campaign.<sup>48</sup>

However, earlier in his memorandum, on page 2, Caulfield discussed a former FBI agent who was known as a "black bag" specialist while at the FBI. Caulfield acknowledged that the term "black bag specialist," meant an individual who specialized in breaking and entering for the purpose of placing electronic surveillance.<sup>49</sup> In addition, Caulfield noted that the term "bag job" in the intelligence community meant a burglary for the placement of electronic surveillance.<sup>50</sup> Thus, it appears that the capability to which Caulfield was referring in his Sandwedge proposal was one of surreptitious breaking and entering for the purpose of placing electronic surveillance, quite similar in nature to the Gemstone operation which ultimately evolved. This interpretation is further buttressed by the budgetary request for \$15,000 for electronic surveillance equipment, noted on the attachment to the plan that was submitted to John Dean.<sup>51</sup>

In August or early September 1971, Caulfield brought Dean a copy of the Sandwedge memorandum. Dean testified that Caulfield wanted to discuss the matter with John Ehrlichman and Attorney General John Mitchell.<sup>52</sup> Dean recalled that the memo provided for "bag men to carry money and engage in electronic surveillance."<sup>53</sup> On September 17, 1971, Caulfield wrote a followup memorandum to John W. Dean in which he explained how the new security corporation could handle the security needs for the 1972 campaign and the Republican National Committee.<sup>54</sup> In addition, Caulfield had lunch in September 1971 with Dean and Magruder to discuss "Project Sandwedge."<sup>55</sup>

Dean discussed the Sandwedge proposal with Attorney General Mitchell.<sup>56</sup> Mitchell said he was not interested in the proposal since he

<sup>46</sup> *Ibid.*

<sup>47</sup> *Id.* at p. 248. Caulfield also testified that he showed the Operation Sandwedge memorandum to Acree, 22 *Hearings* 10350. However, Acree denied that he saw a draft or copy of the Sandwedge memorandum. (Acree letter, June 27, 1974, p. 6).

<sup>48</sup> 21 *Hearings* 9731-32.

<sup>49</sup> 21 *Hearings* 9737.

<sup>50</sup> *Ibid.*

<sup>51</sup> 3 *Hearings* 1121.

<sup>52</sup> 3 *Hearings* 924.

<sup>53</sup> 3 *Hearings* 925.

<sup>54</sup> 3 *Hearings* 1124.

<sup>55</sup> 2 *Hearings* 786.

<sup>56</sup> 3 *Hearings* 925.

felt that the principal problems of the reelection campaign related to security against potential demonstrators. In addition, Dean testified that Mitchell wanted a lawyer to handle any such operation.<sup>57</sup> In his testimony, Mitchell admitted to being aware of the concept that Caulfield was proposing, but he also claimed that he had never seen a copy of the Sandwedge memorandum.<sup>58</sup> Mitchell did, however, talk to H. R. Haldeman about the Sandwedge operation, but said that Haldeman also disapproved of the operation because of "the lack of experience" of the individuals involved.<sup>59</sup>

Mitchell did not, however, wish to discuss the proposal with Caulfield, and so Dean kept putting Caulfield off whenever Caulfield raised the subject.

However, Caulfield also took the Sandwedge proposal to John Ehrlichman. Ehrlichman testified that Caulfield brought him a 3 or 4 page double-spaced typewritten prospectus concerning the establishment of a private security entity.<sup>60</sup> Ehrlichman said he told Caulfield that he could not help him on the proposal. However, Ehrlichman mentioned Operation Sandwedge to Dean, and according to Dean, said that he would like to keep Tony Ulasewicz around during the campaign even though he did not think much of Caulfield's grant proposal. Dean testified that Ehrlichman also informed him that Mitchell and Caulfield should meet to discuss Ulasewicz' future.<sup>61</sup>

Because of Attorney General Mitchell's lack of enthusiasm for Caulfield's project, Dean let the matter ride and did not give Caulfield a specific "yes" or "no." However, in the fall of 1971, it was decided to switch the payments from Kalmbach to Ulasewicz to a cash basis. Therefore, Kalmbach gave Caulfield and Ulasewicz \$50,000 in cash in the fall of 1971, which was meant to fund Ulasewicz' activities at least through the campaign of 1972.<sup>62</sup>

By November 1971 Caulfield knew that his proposal was going nowhere. However, he wanted to work as a scheduling aide to Attorney General Mitchell in the upcoming campaign, and therefore asked Dean to get him an appointment with Mitchell. Caulfield met with Attorney General Mitchell on November 24, 1971, just prior to the Attorney General's meeting with G. Gordon Liddy.<sup>63</sup>

Prior to the meeting between Caulfield and Mitchell, Caulfield directed Ulasewicz to go to New Hampshire and investigate the primary campaign of Congressman Pete McCloskey. This effort was designed in part to gather valuable political information for the potential New Hampshire primary, as well as to show Attorney General Mitchell the capabilities of Caulfield and Ulasewicz. Ulasewicz investigated the McCloskey campaign in New Hampshire from November 18 through November 21, 1971. While in New Hampshire, he interviewed a number of campaign workers and volunteers in the organization under his usual pretext of being a newspaper reporter.<sup>64</sup> Ulasewicz' report on the New Hampshire campaign was forwarded over to the Attorney General along with some follow-up reports that were written after a

<sup>57</sup> *Ibid.*

<sup>58</sup> 4 *Hearings* 1605.

<sup>59</sup> Interview of John Mitchell, June 27, 1973.

<sup>60</sup> 6 *Hearings* 2537.

<sup>61</sup> 3 *Hearings* 925.

<sup>62</sup> See interview with John Sutter, attorney for Ulasewicz, April 30, 1974.

<sup>63</sup> 3 *Hearings* 925.

<sup>64</sup> 3 *Hearings* 1134.

subsequent visit to the McCloskey campaign headquarters 2 weeks later.<sup>65</sup>

Mitchell discussed possible employment in the campaign with Caulfield at their meeting on November 24, 1971. However, Operation Sandwedge may not have been turned off at this meeting because Caulfield continued to refer to his intelligence-gathering capabilities as "Operation Sandwedge."<sup>66</sup> For example, in a memorandum dated December 11-12, 1971, Caulfield described "a Sandwedge-engineered penetration of McCloskey's volunteer headquarters in Washington, D.C."<sup>67</sup> This refers to a visit by Ulasewicz to the McCloskey headquarters to obtain information. The memo also refers to future arrangements to infiltrate the New Hampshire McCloskey campaign.<sup>68</sup>

In late December 1971, Mitchell asked Dean for a summary of Caulfield's and his agent's activities. Dean wrote Mitchell on January 12, 1972, that Caulfield had prepared a list of the activities so that Mitchell could review them in order to decide whether or not further funding would be made available for Mr. Ulasewicz.<sup>69</sup> Mitchell stated that this memorandum was the last discussion of Sandwedge and that the proposal was finally killed then.<sup>70</sup> Ulasewicz continued to be funded through cash payments after this time, but his political investigations dropped off considerably until after the break-in at the Democratic national headquarters on June 17, 1972.

"Operation Sandwedge" as envisioned by Jack Caulfield was a significantly similar precursor to the Gemstone plan which was later implemented in the campaign of 1972. The plans calling for the creation of an offensive intelligence-gathering capability were basically what the Gemstone plan was designed to do. The placement of infiltrators in campaigns, surveillance of the Democratic convention and meetings, the creation of a "derogatory information investigative capability," and the creation of a "black bag" capability were the very measures that the Gemstone plan in fact carried out. Discussions of the Sandwedge proposal appear to have continued until at least January 12, 1972, a mere 2 weeks prior to the initial meeting in Attorney General Mitchell's office when the Gemstone plan was first revealed.

The relationship between the Sandwedge proposal and the Gemstone plan suggested by Jeb Magruder's statement:

In November 1971, it was indicated to me that the project [Sandwedge] was not going to get off the ground and consequently G. Gordon Liddy came into the picture after that.<sup>71</sup>

### 3. OTHER SURVEILLANCE—SENATOR EDWARD M. KENNEDY

Following his investigation of the accident at Chappaquiddick, Ulasewicz kept Senator Kennedy under physical surveillance on a selected basis. In the fall of 1971, John Dean testified that he received a call from Larry Highby, who said that Haldeman wanted 24-hour surveillance placed on Senator Kennedy and regular reports of his activities forwarded to the White House.<sup>72</sup>

<sup>65</sup> 3 *Hearings* 1142-44.

<sup>66</sup> 3 *Hearings* 926.

<sup>67</sup> 3 *Hearings* 1145.

<sup>68</sup> *Ibid.*

<sup>69</sup> 3 *Hearings* 1149.

<sup>70</sup> Mitchell interview, June 27, 1973.

<sup>71</sup> 2 *Hearings* 786.

<sup>72</sup> 3 *Hearings* 922.

Dean passed the request to Jack Caulfield, who emphatically stated that he thought 24-hour surveillance was a silly idea. Caulfield contended that it would require several men and might result in Senator Kennedy discovering he was under surveillance. In addition, the 24-hour surveillance could be easily misinterpreted as a threat on his life, and the police or FBI could be called in to investigate.<sup>73</sup>

Dean agreed with Caulfield's assessment of the idea and convinced Higby that the plan was unwise.<sup>74</sup> As an alternative, Caulfield was directed to keep track of Senator Kennedy's activity and to pursue specific investigations that could turn up valuable political intelligence. As a result, many of the investigations listed above, conducted by Anthony Ulasewicz, were a result of this original directive from Haldeman.

### *Other Investigations of Senator Kennedy*

There were other instances of White House initiated investigations designed to discredit a potential Presidential bid by Kennedy.

In the summer of 1969, John Dean, then at the Justice Department, testified that he was instructed by Deputy Attorney General Richard Kleindienst to contact Cartha DeLoach, Deputy Director of the FBI, and "obtain from him information regarding the foreign travels of Mary Jo Kopechne."<sup>75</sup> (Kopechne was the woman who died in the Chappaquiddick auto accident.) Kleindienst told Dean that the White House wanted this "very important information."<sup>76</sup> Dean obtained the information and passed it on to Caulfield at the White House.<sup>77</sup> Dean was not sure why he was asked to be the courier of the FBI information, but he speculated before the Select Committee that he was chosen "so that others could deny they had done so, should the matter become known."<sup>78</sup>

In another incident, in about July 1971, E. Howard Hunt, who was working part-time for the White House, discussed investigating Senator Kennedy with his employer, Robert Bennett, of Mullen & Co., a Washington, D.C., public relations firm. Hunt had been asked by Colson or Bennett to investigate Senator Kennedy's activities.<sup>79</sup>

Hunt had asked Bennett if he knew people with information on the Kennedys, and Bennett mentioned Clifton DeMotte, a General Services Administration employee in Rhode Island who had worked in John Kennedy's 1960 campaign and was, Bennett believed, antagonistic toward the Kennedy family.<sup>80</sup> Although Bennett testified that he warned Hunt that DeMotte might not know anything politically useful,<sup>81</sup> Hunt says he also told Colson that he had been given "credible information"<sup>82</sup> that DeMotte was worth contacting.

Hunt says Colson asked him to interview DeMotte without disclosing Hunt's White House connection. Hunt said he would need an alias, false documents, or perhaps a physical disguise for the inter-

<sup>73</sup> 21 *Hearings* 9725.

<sup>74</sup> 3 *Hearings* 923.

<sup>75</sup> 3 *Hearings* 922.

<sup>76</sup> *Ibid.*

<sup>77</sup> Dean interview, July 26, 1973, p. 4.

<sup>78</sup> *Ibid.*

<sup>79</sup> 9 *Hearings* 3677. See also Bennett interview, July 27, 1973.

<sup>80</sup> Robert Bennett interview, July 27, 1973.

<sup>81</sup> *Ibid.*

<sup>82</sup> 9 *Hearings* 3677-78. Unless otherwise indicated, details that follow are from Hunt's public testimony.

view. Hunt testified that Colson was wary of approaching the FBI or the Secret Service with such a request, and so he agreed to "look into" obtaining the material from the CIA.

Gen. Robert Cushman, formerly Deputy Director of the CIA, testified that on July 7, 1971, he received a telephone call from Ehrlichman, in which Ehrlichman said, "Howard Hunt had been hired as a consultant to the White House on security matters, that he would be coming to pay me a visit, and could I lend him a hand."<sup>83</sup> Alleged notes taken by Cushman's secretary during the telephone conversation show that Ehrlichman explained that Hunt was working for the President and should be given "carte blanche" by Cushman.<sup>84</sup> However, Cushman denies hearing any such language by Ehrlichman during their conversation.<sup>85</sup>

Hunt subsequently obtained the disguise materials—a driver's license, a wig, and a speech-altering device after a meeting on July 22, 1971, with Cushman.<sup>86</sup>

Hunt testified that he then went to Rhode Island on or about July 28, 1971, and, in disguise, interviewed DeMotte.<sup>87</sup> Colson and Hunt decided that the information obtained in the interview was "useless."<sup>88</sup>

In another incident, Watergate figure Alfred Baldwin testified that he was assigned by James McCord to monitor visitors to Senator Kennedy's senatorial office for a brief period in May 1972. The purpose of this surveillance, Baldwin testified, was "basically to determine what groups were in the area of the Senator's office."<sup>89</sup>

## B. THE PLUMBERS

Another in-house investigative arm of the White House, "the Plumbers," conducted political as well as national security-related investigations during its existence in 1971. This report will not attempt to detail all facets of the Plumbers' actions. Excluded, for example, are David Young's declassification program, the investigation into the SALT talk leaks, the "Radford" investigation, and responsibilities for retracing U.S. policy stands in Southeast Asia for the then ongoing peace negotiations. However, the investigation by the Plumbers of Daniel Ellsberg was reviewed by the committee primarily because of the political implications inherent in that investigation, and its relationship to the coverup. The following facts develop the origin and motivations of the Ellsberg assignment.

On June 13, 1971, the New York Times published the first of a three-part series of what came to be known as "The Pentagon Papers." President Nixon viewed this breach of national security with the utmost gravity.<sup>90</sup> As the President related in his May 22, 1973, address to the Nation:

<sup>83</sup> 8 *Hearings* 3290.

<sup>84</sup> See notes in files of committee.

<sup>85</sup> Cushman executive session, March 7, 1974.

<sup>86</sup> 8 *Hearings* 3292.

<sup>87</sup> 9 *Hearings* 3678. DeMotte, however, claims that Hunt was not in disguise when DeMotte was interviewed. See interview, March 30, 1974, p. 4.

<sup>88</sup> 9 *Hearings* 3678.

<sup>89</sup> 1 *Hearings* 396.

<sup>90</sup> Speech of President Richard M. Nixon: May 22, 1973; as quoted in "Watergate: Chronology of a Crisis" Congressional Quarterly (Washington, D.C., August 1973), p. 90. According to Eglu Krogh, one of the Plumbers, leaks regarding the SALT talks so upset the President that, in a meeting with Ehrlichman and Krogh, he pounded the table with his fists and said such activity had to be stopped.

Therefore, during the week following the Pentagon Papers publication, I approved the creation of a special investigative unit within the White House which later came to be known as the "Plumbers." This was a small group at the White House whose principal purpose was to stop security leaks and to investigate other sensitive security matters.<sup>91</sup>

The President went on to explain the choice of Daniel Ellsberg as a target of the Plumbers' investigation:

At about this time the unit was created, Daniel Ellsberg was identified as the person who had given the Pentagon Papers to the New York Times. I told Mr. Krogh that as a matter of first priority, the unit should find out all it could on his motives. Because of the extreme gravity of the situation, and not knowing then what additional national secrets Mr. Ellsberg might disclose, I did impress upon Mr. Krogh the vital importance to the national security of his assignment. I did not authorize and had no knowledge of any illegal means to be used to achieve this goal.<sup>92</sup>

David Young and John Ehrlichman have also testified about the seriousness of the national security leaks leading to the creation of the Plumbers.<sup>93</sup>

Supervision of this "national security assignment of the utmost gravity" was first offered to Pat Buchanan, a Presidential speechwriter, on July 6, 1971.<sup>94</sup> Buchanan testified that his White House responsibilities consisted of political and public relations-related tasks—speechwriting, daily news summaries, and preparation for press briefings.<sup>95</sup> The Ellsberg assignment was, in Buchanan's own words, "a waste of my time and my abilities."<sup>96</sup> At about this same time, a low key group to handle domestic and intra-governmental problems with leaks was also created in the White House with Fred Malek in charge.<sup>97</sup>

Supervisory responsibilities for the Plumbers ultimately fell on Presidential assistant John D. Ehrlichman with help from Charles Colson. Ehrlichman's assistant, Egil "Bud" Krogh, Jr., and former Kissinger aide David Young were given operational responsibility for the project, which employed both E. Howard Hunt and G. Gordon Liddy.

Prior to his being hired, Hunt had a telephone conversation with Charles Colson about the Ellsberg matter. Part of that conversation was the following exchange:

C. Let me ask you this, Howard, this question. Do you think with the right resources employed that this thing could be turned into a major public case against Ellsberg and co-conspirators?

<sup>91</sup> *Id.* at p. 90.

<sup>92</sup> *Ibid.*

<sup>93</sup> 6 *Hearings* 2518. See also David Young interview, July 23, 1973.

<sup>94</sup> 10 *Hearings* 3911.

<sup>95</sup> 10 *Hearings* 3904-05.

<sup>96</sup> 3 *Hearings* 1111-16.

<sup>97</sup> Buchanan not only verbally rejected the assignment but warned against the media approach in attacking Ellsberg. See 6 *Hearings* 2650.

H. Yes; I do, but you've established a qualification here that I don't know whether it can be met.

C. What's that?

H. Well, with the proper resources.

C. Well, I think the resources are there.

H. Well, I would say so, absolutely.

C. Then your answer would be we should go down the line to nail the guy cold?

H. Go down the line to nail the guy cold; yes . . .

C. And that at this point, the profit to us is in nailing any son-of-a-bitch who would steal a secret document of the Government and publish it or would conspire to steal . . .

H. . . or aid and assist in its . . .

C. And that the case now can be made on the grounds where I don't see that we could lose.

H. It has to be made on criminal grounds and . . .

C. It also has to be this case, won't be tried in the court, it will be tried in the newspapers. So it's going to take some resourceful engineering to . . .<sup>98</sup>

Hunt added later in the conversation, "I want to see the guy hung if it can be done to the advantage of the administration."<sup>99</sup> Colson had earlier commented, ". . . we might be able to put this bastard into a helluva situation and discredit the new left."<sup>1</sup> With Colson's recommendation, Hunt was subsequently hired to work in the Plumbers' group.

On July 9, 1971, Hunt and Colson telephoned retired CIA agent Lucien Conein. According to Hunt, Colson used the alias "Fred Charles," and they attempted to elicit from Conein derogatory information about Ellsberg's activities in Vietnam.<sup>2</sup> Then on July 28, 1971, Hunt wrote a memo to Charles Colson which detailed an operational plan for "neutralization of Ellsberg."<sup>3</sup> The objective of the memo was to determine "how to destroy his public image and credibility."<sup>4</sup> Hunt proposed seeking CIA assistance in performing "a covert psychological assessment/evaluation on Ellsberg."<sup>5</sup>

However, Egil Krogh and David Young were also concerned about Ellsberg's public image. They acknowledged the suggestion to obtain Ellsberg's psychiatric files in Hunt's "neutralization" memorandum in their August 3, 1971, memorandum to Charles Colson.<sup>6</sup> In the meantime, as noted earlier, Hunt received disguise material from the CIA.<sup>7</sup> CIA equipment and assistance in developing a psychological profile of Ellsberg overstepped the Agency's legal bounds by being involved with domestic intelligence-gathering and internal security.

When it was determined that the initial CIA psychological profile was inadequate,<sup>8</sup> a "covert operation" was recommended to supplement the initial profile. This covert operation led to the break-in at Ells-

<sup>98</sup> 9 *Hearings* 3878-79.

<sup>99</sup> 9 *Hearings* 3879.

<sup>1</sup> 9 *Hearings* 3878.

<sup>2</sup> Colson and Hunt taped the conversation. 9 *Hearings* 3881.

<sup>3</sup> 9 *Hearings* 3886.

<sup>4</sup> *Ibid.*

<sup>5</sup> 9 *Hearings* 3886.

<sup>6</sup> See 9 *Hearings* 3893.

<sup>7</sup> 9 *Hearings* 3875; 8 *Hearings* 3235.

<sup>8</sup> Note point No. 2 of the Aug. 11, 1971, memorandum to John D. Ehrlichman from Krogh and Young. 6 *Hearings* 2644.

berg's psychiatrist's office. Interestingly, according to Hunt, the psychiatrist's office had been pinpointed through what Hunt believed might have been FBI wiretaps made available to the Plumbers.<sup>9</sup> On August 11, 1971, Krogh and Young wrote to Ehrlichman:

... We would recommend that a covert operation be undertaken to examine all the medical files still held by Ellsberg's psychoanalyst covering the 2-year period in which he was undergoing analysis.<sup>10</sup>

Ehrlichman approved the recommendation with the qualification of "if done under your assurance that it is not traceable."<sup>11</sup>

Ehrlichman maintained, however, that he had no specific prior knowledge of the Fielding break-in. His explanation of what he envisioned as the "covert operation" offered the following alternatives:

Now, if you are asking me whether this means that I had in my contemplation that there was going to be a breaking and entering, I certainly did not. I heard a remark by a member of the committee to the effect that there are only two ways that one can see a medical file, and that is either to get the doctor to violate his oath or to break or enter. Well, I know that is not so, and I imagine those of you who have been in private practice well recognize there are a lot of perfectly legal ways that medical information is leaked, if you please, and when I saw this that is the thing that occurred to me, that by one way or another this information could be adduced by an investigator who was trained and who knew what he was looking for.<sup>12</sup>

Ehrlichman also offered a national security defense to the overall Ellsberg assignment in his testimony before the Select Committee. Ehrlichman noted that a psychiatric profile would be invaluable in determining:

... whether we were dealing here with a spy ring or just an individual kook, or whether we were dealing with a serious penetration of the Nation's military and other secrets, in such an uncertain situation that a profile of this kind might, certainly not positively, but might add some important additional ingredients which would help to understand the dimensions of the problem.<sup>13</sup>

Ehrlichman, however, testified that he did not approve of an actual break-in to Dr. Fielding's office.<sup>14</sup> In addition, David Young has testified that there were legitimate national security considerations for obtaining Ellsberg's psychiatric file.<sup>15</sup>

E. Howard Hunt, however, testified that from the beginning the Ellsberg assignment had strong political and public relations overtones. When asked what was to be done with the derogatory information about Ellsberg collected by Hunt and the other Plumbers, Hunt replied:

<sup>9</sup> 9 *Hearings* 3786.

<sup>10</sup> 6 *Hearings* 2645.

<sup>11</sup> *Ibid.*

<sup>12</sup> 6 *Hearings* 2547.

<sup>13</sup> 6 *Hearings* 2601.

<sup>14</sup> 6 *Hearings* 2815-16.

<sup>15</sup> See David Young interview, July 23, 1973.



My assumption was that it would be made available by Mr. Colson or someone in his confidence to selected members of the media.<sup>16</sup>

Ehrlichman's role in orchestrating this political use of the media emerges in his approval of the August 26, 1971, memorandum to him from David Young.<sup>17</sup> The last question put to Ehrlichman by Young in the memorandum was: "(9) How quickly do we want to try to bring a change in Ellsberg's image?"<sup>18</sup> David Young, who also testified about the national security need for the psychiatric file, added:

In connection with issue (9), it is important to point out that with the recent article on Ellsberg's lawyer, Boudin, we have already started on a negative press image for Ellsberg. If the present Hunt/Liddy Project No. 1 is successful, it will be absolutely essential to have an overall game plan developed for its use in conjunction with the congressional investigation. \* \* \*

\* \* \* I mentioned these points to Colson earlier this week and his reply was that we should just leave it to him and he would take care of getting the information out. I believe, however, that in order to orchestrate this whole operation we have to be aware of precisely what Colson wants to do.<sup>19</sup>

Ehrlichman responded to this information the following day in a memorandum to Charles Colson:

On the assumption that the proposed undertaking by Hunt and Liddy would be carried out and would be successful. I would appreciate receiving from you by next Wednesday a game plan as to how and when you believe the materials should be used.<sup>20</sup>

The allusion in the earlier Young memorandum to "the recent article on Ellsberg's lawyer" referred to one of Colson's attempts to discredit Ellsberg and those around him in the press. Using FBI files, Howard Hunt developed a profile on Ellsberg's attorney, Leonard Boudin. Hunt took the materials to Colson and says he told him:

\* \* \* I find Boudin's name cropping constantly in these FBI reports, described Boudin or his long background of associations with the extreme left, to put it mildly, and said I felt we had enough material here on him to put together an article of sorts \* \* \* Colson and I certainly discussed it, because then the name Jerry terHorst came into play.<sup>21</sup>

Hunt testified that Colson gave the materials developed by Hunt to terHorst, a Detroit News reporter.<sup>22</sup> Some months later an article appeared in the Detroit News on the Ellsberg defense fund and the attorneys involved, including Boudin, although terHorst denied that Hunt's information was the basis for his article.<sup>23</sup>

<sup>16</sup> 9 *Hearings* 3666.

<sup>17</sup> 6 *Hearings* 2646.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> 6 *Hearings* 2651.

<sup>21</sup> Testimony of Howard Hunt, Sept. 10, 1973, executive session transcript, p. 121.

<sup>22</sup> *Id.* at 122.

<sup>23</sup> 9 *Hearings* 3895.

White House resources were thus used to develop and disseminate derogatory material concerning Ellsberg as part of a negative public relations campaign against the administration's political opponents.

### C. INVESTIGATION OF THE BROOKINGS INSTITUTION

From its early days in office, the Nixon administration was concerned about what President Nixon, in Patrick Buchanan's words, felt was the " \* \* \* institutionalized power of the left concentrated in the foundations that succor the Democratic Party."<sup>24</sup> The Brookings Institution, an influential nonprofit public policy center in Washington, D.C., was of particular interest to Buchanan and others in the administration. In a March 3, 1970, memorandum to the President, Buchanan suggested that the administration encourage and assist the establishment of:

. . . A Republican Conservative counterpart to Brookings, which can generate the ideas Republicans can use, which can serve as a repository of conservative and Republican intellectuals, the way Brookings and others do for the Democrats.<sup>25</sup>

Although Buchanan envisioned no more than directing ". . . future funds away from the hostile foundations, like Brookings,"<sup>26</sup> other Presidential aides apparently envisioned stronger tactics.

During the summer of 1971, Jack Caulfield testified that he and Charles Colson discussed a possible "investigation" of Leslie Gelb, then at the Brookings Institution and formerly a consultant to the National Security Council. Colson, like others in the White House, was concerned about the recent leak of the Pentagon Papers, and he had read that Brookings was planning a study of Vietnam based upon "documents of a current nature."<sup>27</sup> According to Caulfield, Colson wanted him to burglarize the Institution to determine whether, through Gelb's former NSC associations, the Institution had a copy of the papers.

Caulfield remembered his conversation with Colson as follows:

Mr. Colson . . . called me into his office, which was a rather unusual procedure in and of itself, because I did not work for Mr. Colson; indicated he had had discussions with people he did not identify in the Presidential party out in San Clemente, and stated that there was a high priority need to obtain papers from the office of a gentleman named Leslie Gelb, who apparently worked at the Brookings Institute in Washington. And Mr. Colson indicated that he thought that I could, in some fashion, obtain those papers. And I stated to Mr. Colson, how do you propose that I obtain these papers? . . .

In substance, the suggestion was that the fire regulations in the District of Columbia could be changed to have the F.B.I. respond [to a fire] and obtain the file in question from Mr. Leslie Gelb's office.<sup>28</sup>

<sup>24</sup> Mar. 3, 1970, Buchanan to President memorandum, 10 *Hearings* 4114.

<sup>25</sup> 10 *Hearings* 4114.

<sup>26</sup> 10 *Hearings* 4115.

<sup>27</sup> 3 *Hearings* 920. Dean was relating what Caulfield told him about a conversation with Colson.

<sup>28</sup> 22 *Hearings* 10357.

To Caulfield, the clear implication was to fire-bomb the Institution.<sup>29</sup> Caulfield left Colson's office and testified that he "literally ran into the office of Mr. Dean and advised him that if he was not going to take the next plane out to San Clemente, I was."<sup>30</sup> Caulfield told Dean that he thought Colson's instructions were "insane."<sup>31</sup> Dean agreed, and he flew immediately to California to "... tell Ehrlichman this entire thing was insane."<sup>32</sup>

Dean and Ehrlichman met at San Clemente. According to Dean,<sup>33</sup> Ehrlichman agreed that the plan was unwise and called Colson and told him to drop the idea. Ehrlichman remembers meeting with Dean on the subject and calling someone, but he cannot remember whom he called.<sup>34</sup> Dean then called Caulfield to tell him the plan had been squelched.<sup>35</sup>

Although Caulfield testified that Colson later told Caulfield the idea was only a joke,<sup>36</sup> Caulfield, Dean, and Ehrlichman thought it was quite serious. In addition, Lyn Nofziger, then a White House aide who knew Caulfield well, remembered that, shortly after his meeting with Colson, Caulfield spoke with Nofziger about the plan and says he expressed shock that Colson would make such a suggestion.<sup>37</sup> Nofziger says he told Caulfield not to follow Colson's directive.<sup>38</sup>

Although Colson's plan was not carried out, Ulasewicz visited the Institution, at Caulfield's direction (from Dean) to determine the location of offices, security provisions, and so on.<sup>39</sup> This cursory surveillance was done at about the time Dean went to California to see Ehrlichman.

#### D. DIEM CABLE INCIDENT

Another White House investigation involved an effort to tie President Kennedy to the 1963 assassination of South Vietnamese President Ngo Dinh Diem. Colson contended to Hunt that President Kennedy, a Catholic, had implicitly condoned the assassination of another Catholic head of state, Ngo Diem of Vietnam. Such a theory had some political consequences if Senator Kennedy decided to run for President in 1972. Moreover, any Democratic candidate in 1972 might have suffered diminished popularity among the Catholic voters if such history were accepted.

Early in his employment as a White House consultant, E. Howard Hunt testified that he was instructed by Charles Colson to become the White House's "resident expert on the origins of the Vietnam war."<sup>40</sup> Hunt proceeded to steep himself in the history of the Vietnam war, particularly the assassination of Diem.<sup>41</sup> In his capacity as a White House official, Hunt interviewed some CIA sources, including retired Col. Lucien Conein, an Indochina expert. David Young obtained ac-

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> 3 *Hearings* 920.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> 6 *Hearings* 2536.

<sup>35</sup> 3 *Hearings* 920.

<sup>36</sup> Caulfield interview, Sept. 11, 1973.

<sup>37</sup> Nofziger interview, Aug. 29, 1973.

<sup>38</sup> *Ibid.*

<sup>39</sup> Ulasewicz interview, May 8, 1973. Ulasewicz says his activity was not thorough enough to be called a true "casing" as Dean characterized it in his testimony. 3 *Hearings* 920.

<sup>40</sup> Testimony of Howard Hunt, July 25, 1973, executive session transcript, p. 19.

<sup>41</sup> *Ibid.*

cess for Hunt to State Department secret cables from during the war to determine if there were any bias in the selectivity of the cables quoted in the Pentagon Papers.<sup>42</sup>

However, Hunt testified that he had a different assignment from Charles Colson, and that Colson stressed the need to Hunt of finding documentation to show "that it was not the Nixon administration that got us involved in Indochina in the first place."<sup>43</sup> Hunt succinctly characterized what Colson wanted to show with the cables as follows:

I believe it was desired by Mr. Colson, or at least some of his colleagues, to demonstrate that a Catholic U.S. administration had, in fact, conspired in the assassination of a Catholic chief of state of another country.<sup>44</sup>

Hunt testified that he displayed the secret cables to Colson, explaining that they laid a strong, but inconclusive, case regarding Kennedy administration culpability in the Diem death. Hunt noted that certain cables appeared to be missing from the group he had been given, and so there was no hard evidence linking the Kennedy administration with the assassinations of Diem and his brother-in-law.<sup>45</sup>

Hunt characterized the ensuing conversation with Colson as follows:

Well, he [Colson] said, "Do you think you could improve on that," and I [Hunt] said, "Yes." I said, "I would need some technical assistance. I can't do a forgery on my own that will stand up." He said: "What would you need?" I said, "Possibly the Secret Service could help me. I would need type faces and that sort of thing." I said, "I could prepare a credible text of plausible text or set of texts myself, but then we would run up against the typewriter problem." He said, "Well this is too sensitive; we couldn't approach the Secret Service for that. You would have to do this all on your own. Why don't you see what you can do." So as I have stated in other forums, I set about with a razor blade and a paste pot and in effect produced two spurious cables.<sup>46</sup>

Hunt testified he later returned to Colson's office with the spurious cables, where Colson told him that the cables would be made available to a journalist.<sup>47</sup>

In September 1971, Colson contacted Life magazine investigative reporter William Lambert and mentioned to him the possible existence of the Diem cables.<sup>48</sup> Hunt met with Lambert in late September and showed him the forged cables but, at Colson's instructions, refused to allow Lambert to keep or photocopy them. For some time after this meeting, Lambert says he pressed Colson and Hunt for the original documents and interviewed numerous people in an attempt to confirm their authenticity. Finally, on April 28, 1973, Charles Morin, one of Colson's law partners, returned one of Lambert's calls. Lambert says that Morin told him the cable was a fake. Despite Morin's asser-

<sup>42</sup> See David Young interview, July 23, 1973. See also 9 *Hearings* 3772.

<sup>43</sup> Hunt executive session transcript, July 25, 1973, pp. 20-21.

<sup>44</sup> 9 *Hearings* 3672.

<sup>45</sup> *Ibid.*

<sup>46</sup> Hunt executive session, Sept. 10, 1973, p. 106.

<sup>47</sup> 9 *Hearings* 3672.

<sup>48</sup> Interview with William Lambert, Aug. 7, 1973.

tion, when Lambert met with Colson and his attorney the next day, Lambert said Colson denied ever seeing the forged cables and refused to confirm that some of them were forged.<sup>49</sup>

In addition to contacting Lambert, Hunt says that Colson also instructed him to show the entire set of cables, including the forgery, to Col. Lucien Conein.<sup>50</sup> Conein at the time was preparing to participate in a television documentary on the origins of the Vietnam conflict, and it was "Colson's desire for Mr. Conein to draw the conclusion that, in fact, the Kennedy administration had been responsible, implicitly responsible for the assassination of Diem."<sup>51</sup> Colson and Conein talked earlier on the telephone, with Hunt participating,

... about the fact that President Kennedy, himself a Catholic, had in fact—his administration and he implicitly had authorized the assassination of another Catholic and thus would have some impact on the Catholic vote in the subsequent election, if there should be a Kennedy involved in the election.<sup>52</sup>

Even if Edward Kennedy were not the Democratic candidate, Hunt said, "the fabrication was intended to alienate the Catholic vote."<sup>53</sup>

#### E. ITT AND DITA BEARD

Columnist Jack Anderson reported on February 29, 1972, the existence of the now-famous Dita Beard ITT memorandum, alleging that a \$400,000 contribution to the Nixon campaign was tied to a favorable ruling by the Justice Department on ITT's antitrust problems. Concern about the document within the White House led to a number of activities, including clandestine investigations.

Immediate administration reaction to the Anderson article was twofold: (1) A White House action group of political and press advisers was assigned to set out the administration's public position and course of conduct in reaction to the allegations and (2) investigations were undertaken to determine the origin, accuracy, and authenticity of the Beard memorandum.

The White House public relations explanation of the ITT incident was extensive and will not be fully covered in this report. Nearly daily strategy meetings were held which included Richard Moore, Charles Colson, John Dean, Bill Timmons, John Ehrlichman, Fred Fielding, and Wally Johnson. This group's responsibilities included preparing daily press briefing materials and developing a strategy for the upcoming Kleindienst confirmation hearings.

The White House investigation of the ITT affair was two pronged. Charles Colson conducted a review of internal White House contacts, correspondence, and memorandums to determine possible culpability of various persons in any possible wrongdoing surrounding administration—ITT interaction. This investigation led to the celebrated Colson ITT memorandum to H. R. Haldeman.<sup>54</sup> Second, Howard Hunt and personnel from some Government agencies were used to investigate individuals related to the actual publication of the memo.

<sup>49</sup> *Ibid.*

<sup>50</sup> Hunt executive session, Sept. 10, 1973, p. 149.

<sup>51</sup> *Ibid.*

<sup>52</sup> *Id.* at p. 150.

<sup>53</sup> 9 *Hearings* 3733.

<sup>54</sup> 8 *Hearings* 3372.

The Colson ITT memorandum is divided into two parts. The first section discusses briefly the on-going public relations effort to minimize the political impact of the Beard memorandum. The second portion of Colson's memorandum details the administration involvement in the ITT anti-trust settlement and the possible relation of the settlement to a campaign contribution promise.<sup>55</sup> This second portion outlines the findings of Colson's internal investigation into White House misconduct in the ITT matter.

Colson's findings were significant. The documents discovered in his investigation, Colson concluded, could "undermine" or "contradict"<sup>56</sup> previous testimony of administration officials. Colson determined that one document "... would once again contradict Mitchell's testimony and more importantly directly involve the President."<sup>57</sup>

The first sentence of the investigative portion of Colson's memorandum implied that an attempt to suppress White House involvement had been underway for some time:

Certain ITT files which were not shredded have been turned over the SEC; there was talk yesterday in the committee of subpoenaing these from ITT.<sup>58</sup>

Further, Colson acknowledged the existence of an important document relevant to the SEC investigation but concluded: "We believe that all copies of this have been destroyed."<sup>59</sup> Colson's memorandum also summarized the extent of knowledge various administration figures had about ITT:

Neither Kleindienst, Mitchell, nor Mardian know of the potential dangers. I have deliberately not told Kleindienst or Mitchell since both may be recalled as witnesses and Mardian does not understand the problem. Only Fred Fielding, myself, and Ehrlichman have fully examined all the documents and/or information that could yet come out.<sup>60</sup>

Rather than disclose to law enforcement authorities or other concerned agencies what Colson's investigation had uncovered, the White House conducted further investigations of non-White House figures involved in the ITT matter. Robert Mardian testified that G. Gordon Liddy told him he transported ITT lobbyist Beard away from Washington, D.C., after the infamous memo was published.<sup>61</sup> Subsequently, Colson dispatched E. Howard Hunt to Denver, Colo., where Mrs. Beard was in a hospital, to interview her about the origin and authenticity of her memorandum.<sup>62</sup> White House congressional liaison, Wallace Johnson, helped Colson and Hunt on the Dita Beard project, as Hunt explained:

I was referred by him [Colson] to Mr. Wallace Johnson, who was the gentleman who actually dispatched me on the

<sup>55</sup> *Ibid.*

<sup>56</sup> 8 *Hearings* p. 3376.

<sup>57</sup> *Ibid.*

<sup>58</sup> 8 *Hearings* 3375.

<sup>59</sup> *Ibid.*

<sup>60</sup> 8 *Hearings* 3374.

<sup>61</sup> 6 *Hearings* 2359. (Liddy told Mardian about getting Mrs. Beard out of Washington shortly after the Watergate break-in). Hunt asserted in a staff interview that from his conversations with Dita Beard, he concluded that Liddy did not transport her out of town.

<sup>62</sup> 9 *Hearings* 3752-53.

mission and prepared the aide memoir from which I talked subsequently to Mrs. Beard.<sup>63</sup>

Money was then provided for the trip from campaign funds held by G. Gordon Liddy.<sup>64</sup> Following Hunt's interview with her, Mrs. Beard issued a statement claiming that the famous memo was a fraud. This statement was written by Bob Bennett, Hunt's employer at Mullen & Co.<sup>65</sup>

Some Government agencies were also used in the White House investigation. For instance, Acting FBI Director Patrick Gray transmitted a copy of the Beard memorandum to White House counsel John Dean.<sup>66</sup> The memorandum, obtained in the FBI investigation, was subsequently used by Hunt in his interview of Beard.<sup>67</sup>

The White House was also curious about the relationship between Mrs. Beard and a secretary for columnist Jack Anderson.<sup>68</sup> John Martin of the Internal Security Division (ISD) of the Department of Justice said that he interviewed various people on this subject at the request of Robert Mardian, former head of ISD, and Charles Colson.<sup>69</sup>

#### F. THE PLAN FOR AN INVESTIGATION OF ARTHUR BREMER

On May 15, 1972, Alabama Gov. George C. Wallace, then a contender for the Presidency, was shot and seriously injured during a campaign speech in Maryland. E. Howard Hunt testified that Charles Colson called him into his office the morning following the assassination attempt, and told Hunt that Wallace's assailant had been identified as Arthur Bremer of Milwaukee, Wis.<sup>70</sup>

Colson said that the press "had trampled through his (Bremer's) apartment,"<sup>71</sup> and suggested that Hunt should go through the apartment to survey the contents. Colson explained to Hunt the purpose of the assignment as follows:

In the past, when Mr. Kennedy was assassinated, when Jack Ruby was killed, and when Martin Luther King was killed, it was all immediately blazoned as a right wing plot of some sort. We would like to know what kind of kook this guy is. What has he got up there in the way of literature? Is he a neo-Nazi?<sup>72</sup>

Hunt concluded: "... I think that the thrust of that effort was to determine his political orientation or some motivation for what he did."<sup>73</sup>

When initially confronted with the assignment, Hunt says he strenuously protested and explained that the apartment was probably staked out or legally sealed by this time.<sup>74</sup> Hunt testified that Colson

<sup>63</sup> 9 *Hearings* 3753.

<sup>64</sup> Hunt executive session transcript, July 26, 1973, p. 150.

<sup>65</sup> Bennett interview, July 27, 1973.

<sup>66</sup> Patrick Gray interview, May 10, 1973, p. 7.

<sup>67</sup> Hunt executive session transcript, July 25, 1973, p. 59.

<sup>68</sup> Interview of John Martin, May 11, 1973.

<sup>69</sup> *Ibid.*

<sup>70</sup> Testimony of E. Howard Hunt, executive session transcript, July 25, 1973, p. 129.

<sup>71</sup> *Ibid.*

<sup>72</sup> *Id.* at p. 130.

<sup>73</sup> *Id.* at p. 133.

<sup>74</sup> *Id.* at p. 130.

then implied that a break-in could elude the stakeout and provide revealing information.<sup>75</sup>

Finally, according to Hunt, Colson canceled the entire operation.

## G. MISUSE AND ATTEMPTED MISUSE OF GOVERNMENT AGENCIES BY THE WHITE HOUSE, 1969 THROUGH 1972

### 1. INTRODUCTION

In this section, the committee will outline just a few of the attempts by White House personnel to use Government agencies for their own political ends. Elsewhere in this report will be a fuller examination of the use of the incumbency to aid in the reelection of the President.<sup>76</sup>

The results of these White House attempts to misuse agencies are not always clear. In most cases, the committee did not have either the time or the resources to investigate fully the results of these attempts to abuse governmental process. However, the committee presents these examples because they are illustrative of the attitudes and approaches to Government which prevailed in the time leading up to the campaign of 1972, and which created the environment in which the events now known as "Watergate" occurred.

### 2. INTERNAL REVENUE SERVICE

A preferred target of the White House staff, in its attempts to politicize independent agencies, was the Internal Revenue Service. The political enemies project, White House efforts to have the IRS focus on leftwing organizations, White House attempts to get IRS information for political purposes, and the White House concern with tax exemptions given to liberal foundations, all attest to the serious efforts made by the White House to use an independent Government agency for political purposes.

#### *a. Political Enemies Project*

At the same time that early organizational efforts began for the Committee To Re-Elect the President, staff people in the White House were busy organizing the political enemies project.<sup>77</sup> Dean testified that on August 16, 1971, at the request of H. R. Haldeman and John Ehrlichman, he prepared a memorandum entitled "Dealing With Our Political Enemies." Dean is quite succinct in summarizing the purpose of his memo:

This memorandum addresses the matter of how we can maximize the fact of our incumbency in dealing with persons known to be active in their opposition to our administration. Stated a bit more bluntly—how we can use the available Federal machinery to screw our political enemies.<sup>78</sup>

Dean goes on to say that he has reviewed the question of how "to screw our political enemies" with a number of persons "possessed of

<sup>75</sup> *Id.* at p. 131.

<sup>76</sup> See chapter 3 on Responsiveness.

<sup>77</sup> 4 *Hearings* 1682-1753.

<sup>78</sup> 4 *Hearings* 1689.



expertise in the field," and he concludes that the requirements for the project are to have an individual in the White House with full access and support of the top officials of various independent agencies and departments in order to effectively deal with individuals who are giving the White House a hard time.<sup>79</sup>

Dean recommends that Lyn Nofziger be the project coordinator, since "he appears the most knowledgeable and most interested."<sup>80</sup> Dean then goes on to recommend that the White House staff develop a small list of names that could be singled out as targets for action by various departments or agencies of the Government. The potential of such an operation is clearly recognized by Dean, who advised, "We can learn more about how to operate such an activity if we start small and build."<sup>81</sup>

In response to Dean's memorandum, Charles Colson forwarded to Dean a list of 20 enemies that had been prepared on June 24, 1971, by George Bell. In response to Dean's suggestion that the White House focus on only 10 names to try out their techniques, Colson checked off 11 priority targets that he "would give top priority."<sup>82</sup>

Lyn Nofziger, formerly a White House staff aide, denied any involvement in the enemies project with John Dean or anyone else.<sup>83</sup>

However, Jack Caulfield's memorandum to John Dean of August 12, 1971, explicitly stated that Caulfield had asked Nofziger to come up with a candidate to assist in the enemies project.<sup>84</sup>

Nofziger stated that he was aware that Joanne Gordon was working on an enemies list in the White House while doing political research for Charles Colson. Nofziger said he saw no need for a formal "enemies list" because anyone with political savvy would be able to name Richard Nixon's opponents with no trouble.<sup>85</sup>

Nofziger also felt that it was fully appropriate for the administration to ask Government agencies to review carefully the projects of individuals who were unfriendly to the administration.<sup>86</sup>

Scores of lists were prepared in the White House from the spring through the late fall of 1971 of "enemies" and "opponents" of the administration.<sup>87</sup> Most of these lists were prepared by Charles Colson's office, particularly by Joanne Gordon and George Bell. They were sent to Dean's office, since Dean had "the action on the political enemies project."<sup>88</sup>

Dean testified that he did very little to carry out any attacks on the so-called enemies. He testified that the compiling of a list was merely "an exercise that I had no intention to implement."<sup>89</sup> Dean said he was unaware if any of the specified individuals on the list were subjected to any harm or injury, since he said the lists were "principally used by Mr. Colson and Mr. Haldeman."<sup>90</sup> In a September 14, 1971, memorandum to Larry Higby, Dean notes that he will "await the review" of the names on his attached list before taking any action.<sup>91</sup>

<sup>79</sup> *Ibid.*

<sup>80</sup> *Id.* at p. 1690.

<sup>81</sup> *Ibid.*

<sup>82</sup> 4 *Hearings* 1692.

<sup>83</sup> Interview with Nofziger, Aug. 29, 1973, p. 3.

<sup>84</sup> *Id.* at p. 8.

<sup>85</sup> 4 *Hearings* 1688.

<sup>86</sup> Nofziger interview, Aug. 29, 1973, p. 11; see, for example, 4 *Hearings* 1702 for material relating to Chet Huntley's Big Sky project in Montana.

<sup>87</sup> 4 *Hearings* 1682-1754.

<sup>88</sup> 4 *Hearings* 1701.

<sup>89</sup> 4 *Hearings* 1529.

<sup>90</sup> *Ibid.*

<sup>91</sup> 4 *Hearings* 1697.

Charles Colson has stated publicly that these lists were compiled to insure that no opponents of the administration would be included on the invitation lists of the White House.

H. R. Haldeman testified that the enemies list was compiled so that it could serve as an exclusion list for extending White House privileges.<sup>92</sup> Haldeman explained that these lists were compiled since they were "a part of carrying out the effort of the White House \* \* \* to carry out the policies of the administration rather than to provide a forum for the expression of opposition."<sup>93</sup>

However, a quick glance at the memorandum headed "Opponent Priority Activity"<sup>94</sup> shows that the individuals targeted for action were destined to lose far more than their invitations to the White House. For example, under the name of Maxwell Dane is the comment "they should be hit hard starting with Dane."<sup>95</sup> And under the name of Mort Halperin, a former Kissinger aide whose telephone had been tapped by the administration, the memo says that "a scandal would be most helpful here" in a reference to Common Cause where Halperin worked.<sup>96</sup> In light of the comments appended to the individual names on the "enemies list," it is dubious that Haldeman's characterization of "mere exclusion from White House privileges" was what he had in mind when it came to dealing with "enemies."

#### *b. The Enemies List and the Internal Revenue Service*

At the same time that the political enemies project began in the summer of 1971, John Dean testified he was asked to use the Internal Revenue Service on an increasingly frequent basis to get political information for the White House or to initiate audits on opponents of the administration. Dean testified that he had little success in his efforts with Commissioner Johnnie Walters.<sup>97</sup> The objective of a briefing paper Dean prepared for Haldeman was "to make IRS politically responsive."<sup>98</sup> Dean cataloged the White House woes with IRS as follows:

We have been unable to crack down on the multitude of tax-exempt foundations that feed leftwing political causes.

We have been unable to obtain information in the possession of IRS regarding our political enemies.

We have been unable to stimulate audits of persons who should be audited.

We have been unsuccessful in placing RN supporters in the IRS bureaucracy.<sup>99</sup>

As part of the means for making the Internal Revenue Service politically responsive, Dean suggested that "Walters should be told that discreet political action and investigations are a firm requirement and responsibility on his part."<sup>1</sup>

In the White House reconstructed version of John Dean's meeting with President Nixon on September 15, 1972, as relayed by Fred Buz-

<sup>92</sup> 8 *Hearings* 3156, 3214.

<sup>93</sup> 8 *Hearings* 3156.

<sup>94</sup> 4 *Hearings* 1694.

<sup>95</sup> *Ibid.*

<sup>96</sup> 4 *Hearings* 1695. It should be noted that Berl Bernhard, Muskie campaign manager, testified that Halperin was still under electronic surveillance by the Administration after he began working on the Muskie foreign policy task force (11 *Hearings* 4665).

<sup>97</sup> 4 *Hearings* 1682.

<sup>98</sup> *Ibid.*

<sup>99</sup> *Ibid.*

<sup>1</sup> *Ibid.*

hardt to Fred Thompson, the memorandum states that "Dean reported on IRS investigation of Larry O'Brien."<sup>2</sup> Dean testified that at the meeting that day with the President and Bob Haldeman, the President discussed "the use of the Internal Revenue Service to attack our enemies."<sup>3</sup>

Dean also testified that the President wanted to place individuals in the independent agencies "who would be responsive to the White House requirements."<sup>4</sup>

In the House Judiciary Committee transcript of the September 15, 1972, meeting, Haldeman reported to President Nixon that John Dean was working on "the list" "through IRS."<sup>5</sup>

On September 11, 1972, 4 days prior to his meeting with President Nixon, Dean met with IRS Commissioner Johnnie Walters at Dean's office in the Executive Office Building. At this meeting, Dean turned over to Walters a list of 490 individuals, many of whom were McGovern campaign workers, and informed Walters that John Ehrlichman had asked IRS to determine what type of information could be developed concerning those individuals.<sup>6</sup> At this time, according to Walters, Dean was hopeful that the Internal Revenue Service could acquire the information that was requested without creating any political problems.

Walters subsequently discussed the matter with Secretary Shultz who directed Walters to "do nothing."<sup>7</sup> Walters has testified that he did nothing after the meeting.

After Dean's meeting with the President, on September 15, 1972, Dean again called Commissioner Walters on September 25. On this occasion, Dean wanted to know what progress had been made in checking the list that had been provided, and Walters advised Dean against any checking, but agreed to reconsider the matter again with Secretary Shultz. The matter was never taken up again, and the list which was given to Commissioner Walters was sealed and locked in his safe in the Commissioners' office.<sup>8</sup>

Despite the reluctance of Commissioner Walters to involve the Internal Revenue Service in carrying out the political demands of the White House, tax information and income tax audits were still requested by the White House staff and supplied by other IRS personnel. Many of these requests came in the summer and fall of 1971, during the same period of time that the political enemies project was being started, the Sandwedge proposal being considered, and the 1972 campaign being organized.

### *c. Tax Information and Audits Requested of the Internal Revenue Service*

In the study of the enemies list by the Joint Committee on Internal Revenue Taxation, the staff report concluded that "in none of these cases has the staff found any evidence that the taxpayer was unfairly

<sup>2</sup> 4 Hearings 1796. See also White House transcript of September 15, 1972, meeting.

<sup>3</sup> 3 Hearings 958.

<sup>4</sup> *Ibid.*

<sup>5</sup> See Washington Post, May 17, 1974, p. A26. It should be noted that the section of the discussion between the President and Dean about the O'Brien audit by IRS has been deleted from the September 15, 1972 tape turned over to the Special Prosecutor and the House Judiciary Committee.

<sup>6</sup> See Report of the Joint Committee on Internal Revenue Taxation, December 20, 1973, p. 3.

<sup>7</sup> *Id.* at p. 4.

<sup>8</sup> *Ibid.*

treated by the Internal Revenue Service because of political views or activities.”<sup>9</sup> However, the investigation of the Senate Select Committee has disclosed a number of instances where information from the Internal Revenue Service was inappropriately provided to the White House. Dean testified that Jack Caulfield had a contact inside the Internal Revenue Service, and that it was through this contact that they were able to obtain confidential information and learn how to initial audits whenever they wanted to do so.<sup>10</sup> Caulfield has testified that his main contact inside the Internal Revenue Service was Vernon “Mike” Acree, formerly Assistant Commissioner for Inspection.<sup>11</sup>

However, Acree stated that he sent Caulfield no copies of any tax returns, never discussed initiating any specific audits other than in a general sense, and that the only information that was provided to Jack Caulfield was on “type X checks”—an inquiry to see whether or not an individual who was being considered for appointment by the executive branch had tax problems.<sup>12</sup>

These conflicting stories will be discussed in more detail in the context of specific cases further on in this report.

One of the means by which the White House kept abreast of IRS activity was through the sensitive case reports prepared by the IRS according to long-established procedure.<sup>13</sup>

### (1) *Sensitive case reports*

The IRS maintained a list of individuals who would be considered sensitive cases—Senators, Congress people, entertainers, associates of the President, and certain citizens in high income tax brackets. Sensitive case reports are filed from the field office each month on investigations concerning these individuals, and are then routed to the appropriate IRS division. The heads of each division select the more significant sensitive case reports to send on to the Assistant Commissioner of Compliance. His staff subsequently reviews these files and prepares a “cull” section which are those cases which are worthy of note by the Commissioner of the IRS—usually between 20 and 25 such cases.

Subsequently, the Commissioner of the IRS and/or one of his assistants met with the Secretary of the Treasury to determine whether any of the sensitive case reports were significant enough to bring to the attention of the President. For example, cases involving the President’s personal friends or large contributors were usually important to bring to the President’s attention in order to avoid any embarrassment for the President and the executive branch.

When Roger Barth was assistant to the Commissioner of the IRS, he would call John Ehrlichman directly (and sometimes John Dean), and the Secretary of the Treasury would contact the President directly to bring these sensitive cases to the White House’s attention. Barth stated that an average of one sensitive case report per month was forwarded on.<sup>14</sup> Former IRS Commissioner Johnnie Walters testified that he was unaware of Barth showing or sending sensitive case reports to John Ehrlichman and that it would have been “out of the routine” at IRS.<sup>15</sup>

<sup>9</sup> See Joint Committee on Internal Revenue Taxation Report, Dec. 20, 1973, p. 12.

<sup>10</sup> 4 *Hearings* 1535.

<sup>11</sup> See Caulfield interview, Sept. 11–12. See Caulfield executive session, Saturday, Mar. 23, 1974.

<sup>12</sup> Acree interview, Sept. 27, 1973. See also Acree letter, June 27, 1974.

<sup>13</sup> This background is also relevant to the Hughes-Rebozo report section on the IRS investigation of Rebozo.

<sup>14</sup> See Roger Barth interview, July 30, 1973, pp. 7–8.

<sup>15</sup> 24 *Hearings* 11628.

This sensitive case reporting procedure was important in the case of Mr. Charles G. Rebozo, and the IRS investigation into Mr. Rebozo commencing in 1972 and 1973. This matter will be discussed more fully in another chapter of this report. However, there were other channels by which the White House requested information or tax audits from IRS.

## (2) *Requests for audits*

*Newsday* reporters.—In the fall of 1971, *Newsday* completed a long investigation into the affairs of Charles “Bebe” Rebozo that was to be published in early October 1971. The prospective publication of an unfavorable article about the President’s best friend caused ripples of apprehension throughout the White House. For example, on September 10, 1971, Caulfield wrote to John Dean a very detailed memo concerning his inquiry into the background and circumstances of the *Newsday* article. Caulfield noted that “A discreet look at the newspaper’s publication calendar has been accomplished.”<sup>16</sup> In the same memorandum Caulfield notes that “Robert Greene, leader of the investigative group, has been in both Washington and Florida within the past 2 weeks.”<sup>17</sup> This information was provided to Caulfield by an FBI agent and is discussed in more detail in another section.

Dean testified that after the article about Rebozo was published, he received instructions from either Haldeman or Ehrlichman that Robert W. Greene, head of the investigative team for the article, should be audited by the IRS.<sup>18</sup>

Caulfield testified that Dean asked him to “see how an audit might be done on Mr. Greene, how it might be done in a way that might not be illegal.”<sup>19</sup>

In response to Dean’s request, Caulfield called Mike Acree at the Internal Revenue Service to determine how audits were initiated on individuals. Acree explained to Caulfield that they were often started from anonymous “informants” letters which were received by the IRS. Acree recalled that the conversation only involved a general discussion of the audit process, without specific names being mentioned.<sup>20</sup>

The results of Caulfield’s discussion with Acree are contained in a memorandum from Caulfield to Dean.<sup>21</sup> The memo states that a “knowledgeable source at IRS” was contacted by Caulfield, and that the source suggested that “a priority target be established within the group with preference given to one residing in the New York area.”<sup>22</sup> Dean then asked him to initiate the audit on Robert Greene. Caulfield said he spoke to Acree to ask him to send an anonymous letter to the Internal Revenue Service about Greene. Caulfield believes that the letter was, in fact, sent on Acree’s direction.<sup>23</sup> Acree denied that he knew of any request for a specific audit on Robert Greene and also denied that any anonymous letters were sent at his direction.<sup>24</sup>

However, in light of Caulfield’s suggestion to Dean that a “priority target be established within the group with reference given to one

<sup>16</sup> See 21 *Hearings* 9793.

<sup>17</sup> *Ibid.*

<sup>18</sup> 3 *Hearings* 1072.

<sup>19</sup> 22 *Hearings* 10373.

<sup>20</sup> Acree interview July 31, 1973, p. 3; see also Acree letter, June 27, 1973.

<sup>21</sup> 4 *Hearings* 1685.

<sup>22</sup> *Ibid.*

<sup>23</sup> See Caulfield interview, Sept. 11, 1973, p. 11.

<sup>24</sup> Acree interview, July 31, 1973.

residing in the New York area," and in light of the fact that Robert Greene resides in New York State and had his return audited by New York State under the Federal/State exchange program, the question arises as to whether the audit, in fact, resulted from Caulfield's efforts.<sup>25</sup>

On another occasion, Dean asked Caulfield to initiate audits on three or four individuals. Caulfield says he brought Acree over to the White House to discuss the matter with Dean and Caulfield. Caulfield stated that Acree was quite reluctant to get involved in these audits, and that he remained evasive when specifically asked to do these projects. Caulfield testified that the matter apparently died shortly thereafter because of Acree's lack of interest.<sup>26</sup>

*Harold Gibbons.*—On June 12, 1972, Charles Colson wrote a memorandum to John Dean requesting that Dean initiate an income tax audit on Harold G. Gibbons, a vice president of the Teamsters Union in St. Louis.<sup>27</sup> Colson's motivation for wishing to start the audit is rather clear:

Gibbons, you should know, is an all-out enemy and McGovernite, ardently anti-Nixon. He is one of three labor leaders who were recently invited to Hanoi.<sup>28</sup>

Dean testified that he ignored this request from Colson, and that nothing was ever done to initiate such an audit.

*Emile DeAntonio, Daniel Talbot, and New Yorker Films.*—Caulfield felt sufficiently confident of the White House's ability to initiate income tax audits that on at least one occasion he recommended to John Dean that a "discreet IRS audit" be done. Following the release of the film, "Millhouse," a number of individuals within the White House became quite concerned about the political impact of this film showing reruns of old Nixon speeches. As a result, in the summer and early fall of 1971, Caulfield directed Anthony T. Ulasewicz to view the film and to make discreet inquiries of New Yorker Films, Inc., Daniel Talbot, the film distributor, and Emile DeAntonio, the producer of the film.

Finally, on October 15, 1971, Caulfield felt that the success of the film posed such a serious threat to the White House that he suggested to John Dean that they initiate "discreet IRS audits of New Yorker Films, Inc., DeAntonio, and Talbot."<sup>29</sup> Caulfield stated that if his recommendation to John Dean was agreeable, he was going to approach Mike Acree about initiating the audits. Dean, however, did not agree with Caulfield's recommendations, and Caulfield said no further action was taken at that time.<sup>30</sup>

Dean forwarded Caulfield's suggestions to his assistant, Fred F. Fielding, and Fielding reacted quite negatively to the idea of initiating a discreet IRS audit or leaking derogatory information about the film producers. Nothing in Fielding's memorandum indicated that his

<sup>25</sup> The committee has not had access to sufficient records nor interviewed enough witnesses on this matter to reach a definite conclusion.

<sup>26</sup> See Caulfield interview, Sept. 11, 1973, pp. 11-12; and Acree interview, July 31, 1973. Acree recalled a meeting with Dean, but had no recollection of Dean asking him to "undertake any tax audits on anyone." Acree also recalled a phone call from Caulfield in which Caulfield "inquired again as to the Internal Revenue practices involving the initiation of audits," but that nothing further came of the conversation. (Acree letter, June 27, 1974, pp. 17-18.)

<sup>27</sup> 4 *Hearings* 1686.

<sup>28</sup> *Ibid.*

<sup>29</sup> 21 *Hearings* 9829.

<sup>30</sup> 22 *Hearings* 10383.

reaction was because such tactics would be ethically improper, but rather because "doing IRS audits just doesn't seem to be a solution that will help us."<sup>31</sup>

*Larry O'Brien.*—There is evidence before the Select Committee that an audit of Larry O'Brien was encouraged by White House officials in the summer of 1972, and that O'Brien's tax returns were specially inspected by IRS personnel at the direction of John Ehrlichman.<sup>32</sup> However, this activity is more fully described in a later section of this report.<sup>33</sup>

*Other Requests.*—John Dean testified that he was asked by several people in the White House, and particularly Rose Mary Woods, if he could "do something" about an IRS audit on Dr. Kenneth Riland, President Nixon's osteopath.<sup>34</sup> Dean testified that he requested that the relevant officials at Justice and IRS keep him informed on the matter after he learned of the serious allegations, but that nothing further was done.<sup>35</sup>

Dean also testified that he was asked to "do something" about the audits of Rev. Billy Graham and actor John Wayne:

\* \* \* I was told that I was to do something about these audits that were being performed on two friends of the President. They felt they were being harassed and the like \* \* \* finally, when I got around to checking on it, Mr. Caulfield sent me some information, which I think is evidenced in the exhibit, and a note went to Mr. Higby. Mr. Higby sent it in to Mr. Haldeman, and Mr. Haldeman wrote a note on the bottom, "This has already been taken care of," so obviously, things were happening that I had no idea on.<sup>36 37</sup>

Roger Barth testified that he knew of no request from Reverend Graham for help from the IRS, but that Barth had brought to the attention of the Secretary of the Treasury and possibly Jack Caulfield a discrepancy in the sensitive case reports concerning how an audit on Graham was initiated.<sup>38</sup>

Documentary evidence received by the Select Committee shows that Jack Caulfield received typed reports from the IRS indicating that neither John Wayne nor Reverend Graham was being harassed.<sup>39</sup> In addition, Barth testified that he was not aware of any action taken to impede the audit on Reverend Graham<sup>40</sup> and there is presently no evidence before the committee showing any action taken to impede any investigation of Mr. Wayne.

### (3) *Requests for taxpayer information from the IRS*

Individuals working in the White House requested taxpayer information as well as actual returns from the IRS.

Early in the administration, Clark Mollenhoff, then a staff assistant at the White House, asked IRS if he could examine nine individual

<sup>31</sup> 21 *Hearings* 9829.

<sup>32</sup> See 23 *Hearings* 11222-24.

<sup>33</sup> See section on Hughes-Rebozo, Chapter 8.

<sup>34</sup> 4 *Hearings* 1530; Dr. Riland was subsequently acquitted of tax fraud by a Federal jury.

<sup>35</sup> *Ibid.*

<sup>36</sup> Dean subsequently stated that he was to "turn off" the audits of Reverend Graham and John Wayne (interview, July 29, 1973, p. 19).

<sup>37</sup> 4 *Hearings* 1530; see also 21 *Hearings* 9808.

<sup>38</sup> 23 *Hearings* 11270-71.

<sup>39</sup> 21 *Hearings* 9808.

<sup>40</sup> 23 *Hearings* 11272.

tax returns. Roger Barth testified that Mollenhoff was given access to these returns only after Commissioner Randolph Thrower received written requests on behalf of the President.<sup>41</sup>

After Mollenhoff left the White House, Barth noted that only individuals who worked directly for the President such as Ehrlichman, Haldeman, and Dean would have access to tax returns and audit information. Barth added that other individuals on their staffs, including Jack Caulfield, also had access to the tax information.<sup>42</sup>

Among the requests made by Caulfield for specific taxpayer information from the IRS were the following:

1. In the fall of 1971 Larry Goldberg was being considered to head up the Jewish Citizen's for the Re-election of the President. Caulfield did a background investigation of Goldberg, to determine his loyalty to the reelection campaign and his involvement in Jewish organizations. Among the information obtained by Caulfield in the course of his investigation were actual copies of pages from Goldberg's tax returns from 1968, 1969, and 1970.

Caulfield testified that he obtained this information from Mike Acree, but Acree had no recollection of providing any specific information on Goldberg.<sup>43</sup> Roger Barth testified that he had no specific recollection of sending that information to Caulfield, but that he "may have sent that over."<sup>44</sup>

2. In late September 1971, an individual wished to donate a wine storage vault to the Western White House. John Dean asked Caulfield to check out the individual. On October 15, 1971, Caulfield wrote a memo to Dean which reflected that Caulfield had obtained access to the individual's income tax returns.<sup>45</sup> Because of the information contained therein, Dean noted that Kalmbach would call the individual and "tell him we are not interested" on October 19, 1971.<sup>46</sup>

Caulfield testified that the tax information was given to him by Mike Acree, and that Acree had obtained the information from a "pretext interview" conducted by an IRS agent.<sup>47</sup> Acree recalled being asked about the individual by Caulfield but has no recollection of conducting, authorizing, or knowing of any "pretext interviews" of the individual.<sup>48</sup>

3. Caulfield requested and received specific taxpayer information on five individuals who were seeking to involve the White House in a scheme that claimed the discovery of the fabled "Lost Dutchman" gold mine in the southwest. Caulfield, at the request of Peter Flanagan, investigated these five individuals and he was given access to their Internal Revenue Service tax returns. Caulfield testified that he obtained this tax information from Mike Acree,<sup>49</sup> but Acree denied that he furnished Caulfield any inappropriate information and did not recall any request such as that described by Caulfield.<sup>50</sup>

4. In October 1971, Caulfield was asked to do an investigation of Stuart L. Udall, former Secretary of the Interior, and the Overview

<sup>41</sup> 23 *Hearings* 11228. See also the IRS opinion granting access to tax returns to White House staff acting at the direction of the President at exhibit 8, p. 252.

<sup>42</sup> *Ibid.*

<sup>43</sup> 21 *Hearings* 9796; see also Acree interview, Sept. 27, 1973.

<sup>44</sup> 23 *Hearings* 11262.

<sup>45</sup> 21 *Hearings* 9847.

<sup>46</sup> *Ibid.*

<sup>47</sup> 22 *Hearings* 10394.

<sup>48</sup> See Acree letter, June 27, 1974, p. 20.

<sup>49</sup> 21 *Hearings* 9711.

<sup>50</sup> See Acree letter, June 27, 1974.



Corp., of which Mr. Udall was chairman of the board. In a memorandum of October 8, 1971, Caulfield informed Dean that he "asked for an IRS check to support this material."<sup>51</sup> Caulfield testified that he meant by that comment that he could sit down and speak with Mike Acree about any tax problem that Overview Corp. or Stuart Udall may have had.<sup>52</sup>

Dean asked Caulfield to find out if Overview had any Federal contracts, and so Caulfield checked with five separate Federal agencies, including IRS, only to discover no record of any Federal contracts for any of them. The testimony of Caulfield suggests that the motivation behind discovering whether or not there were any Federal contracts given to Overview Corp. was a desire of the White House to cancel these contracts if any existed.<sup>53</sup>

In his Sandwedge proposal, Caulfield described Mike Acree as "a strong Nixon loyalist [who] has proved it to me personally on a number of occasions."<sup>54</sup> Acree's potential assignment in the Sandwedge operation was to provide "IRS information input, financial investigations," and other Federal law enforcement liaison information.<sup>55</sup> Therefore, according to Caulfield, many of these requests for IRS information in the fall of 1971 were in part an effort by Caulfield to demonstrate the potential effectiveness of his organization. While some requests for IRS information were apparently legitimate, the ready access to such highly confidential information should be more effectively curbed in the future.

#### (4) *Special Service Staff*

On June 12, 1969, the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations heard testimony from its staff and from a former member of the Black Panther Party to the effect that the Black Panthers had never filed income tax returns and had never been audited by the Internal Revenue Service.<sup>56</sup> In response to some of the testimony, Senator Karl Mundt commented that it seemed that the Black Panthers "get pretty special treatment."<sup>57</sup> There was also testimony in these hearings from Leon Greene, IRS Deputy Assistant Commissioner of Compliance, who testified about the tax exempt status of certain politically active groups and raised the question of whether or not they should be tax exempt.<sup>58</sup>

Following these hearings in the summer of 1969, on about July 1, 1969, Tom Charles Huston, Assistant to the President, telephoned Roger Barth and requested that the Internal Revenue Service begin reviewing the activities of certain activist organizations.<sup>59</sup> IRS also received a list of organizations from the Permanent Subcommittee on Investigations that the committee felt the IRS should investigate. Huston noted in a later memo to H. R. Haldeman that the President had "indicated a desire for IRS to move against leftist organizations taking advantage of tax shelters" in early 1969.<sup>60</sup>

<sup>51</sup> 21 *Hearings* 9821.

<sup>52</sup> 22 *Hearings* 10394.

<sup>53</sup> *Ibid.*

<sup>54</sup> See exhibit 7, p. 240.

<sup>55</sup> *Ibid.*

<sup>56</sup> See hearings of Permanent Subcommittee on Investigations of the Senate Committee on Government Operations, Riots, Civil, and Criminal Disorders, 92d Cong., 1st sess., p. 373 et seq.

<sup>57</sup> *Id.* at p. 373.

<sup>58</sup> See Barth interview, p. 11.

<sup>59</sup> *Id.* at p. 11. See also 3 *Hearings* 1339; memo dated Aug. 14, 1970.

<sup>60</sup> 3 *Hearings* 1338.

As a result of these various pressures, the IRS established the Activist Organizations Committee on July 18, 1969, whose principal function was to assemble data and monitor the activities of certain organizations with reference to their compliance with IRS laws.

The committee was established on a very secretive basis. In a memorandum of July 24, 1969, that discussed the first meeting of the committee, it was noted:

We do not want the news media to be alerted to what we are attempting to do or how we are operating because the disclosure of such information might embarrass the administration or adversely affect the service operations in this area or those of other Federal agencies or congressional committees.<sup>61</sup>

The memorandum also noted that initially, "a type of organization in which we are interested may be ideological, militant, subversive, radical, or other, and one of our first problems will be to define and to determine what kind of organization we are interested in."<sup>62</sup>

In 1970, the IRS altered the name of the group to the Special Service Group, and subsequently the name of the organization was again changed to the Special Service Staff.<sup>63</sup>

On August 14, 1970, Tom Charles Huston requested a progress report on the project from the Commissioner of the Internal Revenue Service, which he received more than a month later. In that report, Commissioner Thrower explained the history and purpose of the group as follows:

. . . The function of the Special Service Group is to obtain, consolidate and disseminate any information on individuals or organizations (including major financial sponsors of the individuals or organizations) that would have tax implications under the Internal Revenue laws. . . .

The sole objective of the Special Service Group is to provide a greater degree of assurance of maximum compliance with the Internal Revenue laws by those involved in extremist activities and those providing financial support to these activities.<sup>64</sup>

However, it appears from Mr. Huston's memorandums that he was not anxious to limit the activities of the Special Service Staff merely to tax matters. On September 21, 1970, Huston wrote to Haldeman that "what we cannot do in a courtroom by criminal prosecutions to curtail the activities of some of these groups, IRS could do by administrative action. Moreover, valuable intelligence-type information could be turned up by IRS as a result of their field audits."<sup>65</sup> Huston also noted that while he had been pressing the IRS "to move against leftist organizations taking advantage of tax shelters," his efforts had been "to no avail."<sup>66</sup>

By September, 1970, the Special Service Group had information "on approximately 1,025 organizations and 4,300 individuals."<sup>67</sup>

<sup>61</sup> Memorandum dated July 24, 1969, p. 3. See exhibit 9, p. 263.

<sup>62</sup> *Id.* at p. 4.

<sup>63</sup> Joint Committee on Internal Revenue Taxation Report, Dec. 20, 1973, p. 14.

<sup>64</sup> 3 *Hearings* 1343-44.

<sup>65</sup> 3 *Hearings* 1338.

<sup>66</sup> *Ibid.* See also next section on foundations.

<sup>67</sup> 3 *Hearings* 1344.

The existence of the Special Service Staff was known to certain Congressional investigating committees, but its existence was not announced to the general public until April 1972.<sup>68</sup>

In August 1973, the Special Service Staff was abolished by the Internal Revenue Service, and it was announced that financial information about tax resisters and protesters could be adequately obtained by the regular divisions of the IRS. However, the compiling of vast files and information coupled with White House intentions demonstrate the potential abuses and show the need for restraints on the use of such information.

##### (5) *Tax exempt foundations*

As is obvious from the memorandums of Tom Charles Huston and Patrick Buchanan, one of the major concerns of the Nixon White House from 1969 to 1972 was that liberal and "left-wing" foundations were using tax exemptions from the IRS to sustain their political activities.

The difficulties experienced by the administration were examined in a March 3, 1970, Buchanan memorandum to the President which discussed "how to combat the institutionalized power of the left concentrated in the foundations that succor the Democratic party."<sup>69</sup>

Buchanan's basic theme was that a number of the large foundations had been using their tax exempt status to build huge reservoirs of capital to fund political or quasi-political undertakings that were almost uniquely liberal in their direction, thereby causing a serious imbalance in the political process. These foundations, notably the Brookings Institution and the Ford Foundation, were, according to Buchanan, controlled by individuals with definite liberal philosophies—philosophies which are reflected in the public policies, public attitudes and public undertakings sponsored by the foundation.<sup>70</sup>

To remedy the problem, Buchanan proposed a number of recommendations, including: The utilization of the Internal Revenue Service to place checks on those foundations that were hostile to the Nixon administration; the removal of what Buchanan perceived as a pre-existing Democratic bias at the Internal Revenue Service; the selective distribution of Government funds to those foundations friendly to the Nixon administration goals; and, most importantly, the creation of a new foundation to serve as a haven for conservative intellectuals.<sup>71</sup>

Buchanan also suggested that there be "a strong fellow running the Internal Revenue Division; and an especially friendly fellow with a friendly staff in the tax-exempt office. Am not sure we have this right now."<sup>72</sup>

Another of Buchanan's suggestions for curtailing the influence of certain liberal foundations was to disburse selectively Federal grants by the administration. "The administration should begin \* \* \* to initiate a policy of favoritism in all future Federal grants to those institutions friendly to us, that want work—and we should direct future funds away from the hostile foundations, like Brookings."<sup>73</sup>

<sup>68</sup> See Joint Committee on Internal Revenue Taxation Report, Dec. 20, 1973, p. 15.

<sup>69</sup> Memorandum to the President from Patrick J. Buchanan dated Mar. 3, 1970; 10 *Hearings* 4114.

<sup>70</sup> 10 *Hearings* 3943-52.

<sup>71</sup> 10 *Hearings* 4114.

<sup>72</sup> 10 *Hearings* 4118.

<sup>73</sup> 10 *Hearings* 4115.

Buchanan suggested that the President direct a study of the top 25 foundations in this country, which among other things, would reveal "which are friendly, which are potentially friendly, which can be co-opted to support projects that the President supports, and which are hostile to us; which are the arms of political adversaries."<sup>74</sup> Buchanan also recommended that the President direct the Bureau of the Budget "to come up with a listing of all Federal moneys from each department that go to foundations for studies and research." Thus, with the creation of an administration-oriented conservative foundation, Buchanan envisioned:

All Federal contracts now going to institutions which are essentially antiadministration would be shifted to this new baby and to other proadministration foundations. Antiadministration foundations should be cut off without a dime. One good talk to the Cabinet would be all that would be required to get cooperation here—and Budget could be on notice to notify the West Wing [of the White House] if Brookings gets any more money.<sup>75</sup>

Other individuals in the White House also gave thought to the problem of "liberal" foundations. John Dean asked Jack Caulfield in the summer of 1971 to consider how the administration could most effectively deal with the Ford Foundation and the Brookings Institution in 1972.

Caulfield's solution to the problem was, similar to Buchanan, to apply pressures to have the Internal Revenue Service strictly enforce existing statutes and promulgated regulations designed to "threaten the tax-exempt status enjoyed by these organizations."<sup>76</sup>

Caulfield also observed that:

Commissioner Walters \* \* \* has not yet exercised the firm leadership they expected at the time of his appointment. Additionally, there appears to be a reluctance on his part to make discrete politically oriented decisions and to effect major appointments based upon administration loyalty considerations.<sup>77</sup>

Much of the input for Caulfield's observations came from Roger Barth, according to Caulfield.<sup>78</sup> On July 20, 1971, shortly after the publication of the "Pentagon Papers" by the New York Times, John Dean wrote a memo to Bud Krogh which stated in part:

In your work on the Pentagon Papers and related issues you will become aware of the fact that there is a publication out of the Brookings Institution indicating that they are planning for the fall of this year a study of Vietnam based on documents of a current nature. Chuck Colson has made some efforts to determine what Brookings is up to but I don't think he has produced any solid evidence of the nature of this publication. I requested that Caulfield obtain

<sup>74</sup> 10 *Hearings* 4114.

<sup>75</sup> 10 *Hearings* 4117.

<sup>76</sup> 21 *Hearings* 9771.

<sup>77</sup> *Ibid.*

<sup>78</sup> 22 *Hearings* 10357.

the tax returns of the Brookings Institution to determine if there is anything that we might do by way of turning off money or dealing with principals of the Brookings Institution to determine what they are doing and deal with anything that might be adverse to the administration.<sup>79</sup>

Caulfield did other checking into tax-exempt institutions at about this time for John Dean. On July 6, 1971, he reported on Potomac Associates, an organization that the White House feared would develop into another Brookings Institution. Caulfield noted that the building where Potomac Associates had offices appeared to have good security with a guard present in the lobby at all times. However, Caulfield noted that "a penetration is deemed possible if required."<sup>80</sup>

Caulfield was also asked to investigate the Fund for Investigative Journalism.<sup>81</sup> Caulfield wrote a memo to John Dean on February 17, 1972, that a "discreet inquiry" determined that the Fund for Investigative Journalism had a tax-exempt status granted by the IRS in April 1970.

In addition, Caulfield said that the fund was the principal source for financing stories of the My Lai massacre and that it was primarily financed with "extreme leftwing" money. Caulfield noted that a request for more detailed information "will be in hand on a discrete basis during the early part of next week."<sup>82</sup> This reference concerned the investigation conducted by Tony Ulasewicz at Caulfield's direction.<sup>83</sup>

The request for a tax exemption by the Center for Corporate Responsibility, a nonprofit organization designed to promote corporate social responsibility through educational and research activities, was denied by the Internal Revenue Service on May 16, 1973, despite unanimous approval by the Interpretive Division of the Chief Counsel's office at IRS.<sup>84</sup> The opinion denying the tax exemption was written by an attorney with no prior involvement in the case at the direction of Roger Barth, then Deputy Chief Counsel.<sup>85</sup> Notes of the Assistant Director of the Interpretive Division found in the IRS file on the case said, "*perhaps White House pressure.*"<sup>86</sup> Finally, on December 11, 1973, Judge Charles Richey ordered that the Center be recognized as a tax-exempt organization by the Internal Revenue Service.<sup>87</sup>

### 3. FEDERAL BUREAU OF INVESTIGATION

Another technique of the White House staff was to obtain derogatory information about individuals from investigative agencies such as the FBI and to disseminate the information to the press by way of selective "leaks." Caulfield referred to the process of disseminating derogatory information about individuals to the media as a "Nofziger job." Caulfield testified that he meant that Lyn Nofziger, "whose talents in that

<sup>79</sup> 21 Hearings 9771.

<sup>80</sup> 21 Hearings 9765.

<sup>81</sup> 21 Hearings 9877.

<sup>82</sup> *Ibid.*

<sup>83</sup> Ulasewicz interview, June 9, 1973. Using a pretext name, Ulasewicz interviewed Ronald Ridenour, the Army photographer who helped to break the story in California. He also interviewed others involved in breaking the story.

<sup>84</sup> See *Center on Corporate Responsibility, Inc. v. Shultz et al.*, U.S. District Court for the District of Columbia, Dec. 11, 1973, p. 7 (mimeo).

<sup>85</sup> *Id.* at p. 8.

<sup>86</sup> *Id.* at p. 6.

<sup>87</sup> *Id.* at p. 31. The order primarily resulted from defendants' failure to comply with the court's discovery orders. (*Id.*, p. 16.)

area were much greater than anyone else around the White House," would make the derogatory information available to reporters to do stories on the individuals.<sup>88</sup> Nofziger explained that he merely provided significant political information to reporters, and that there was nothing unusual about doing this in either political campaigns or in Government itself.<sup>89</sup>

Some examples of White House use of the FBI to obtain information on individuals for non-law-enforcement purposes are related below.

In the summer of 1969, while John Dean was working at the Department of Justice, he testified that he was directed by Deputy Attorney General Richard Kleindienst to call Cartha DeLoach, the Deputy Director of the FBI, and obtain from him some information for the White House relating to the foreign travels of Mary Jo Kopechne (the woman who died in the Chappaquiddick accident).<sup>90</sup> Dean said he called DeLoach and subsequently related the information he obtained to Jack Caulfield at the White House.<sup>91</sup>

Dean testified that on another occasion while traveling with the President, Haldeman requested Larry Higby to direct the FBI to do an investigation of CBS news correspondent Daniel Schorr. Higby, in turn, informed Hoover of the request, and Hoover proceeded with a "full field wide open investigation" that soon leaked to the press. Dean testified that as a result, Fred Malek announced that Schorr was being considered for an environmental post in the administration, and that the FBI investigation was merely a preliminary background check.<sup>92</sup>

H. R. Haldeman had no recollection of the purpose for ordering the FBI investigation, but in light of other activities going on in the White House at that time, the question arises as to whether there was a valid basis for requesting the FBI investigation of Mr. Schorr.

Alexander Butterfield stated that both Haldeman and Ehrlichman requested about eight FBI checks on nonappointees to the Government. Among these checks were Frank Sinatra, Helen Hayes, and Daniel Schorr.<sup>93</sup>

In August 1971, Jack Caulfield testified that he first learned of the upcoming Newsday series on Bebe Rebozo from Pat Henry, an FBI agent in New York.<sup>94</sup> Caulfield said that Henry subsequently provided him with more information that served as the basis for Caulfield's memorandum on September 10, 1971, to John Dean.<sup>95</sup> In this memorandum, Caulfield claimed that there had been "a discreet look at the newspaper's publication calendar," and that there was no indication that the series of articles would appear during the month of September. There is no evidence that any formal FBI investigation was launched into the Newsday publication of the series on Rebozo.<sup>96</sup>

Finally, Caulfield testified that he obtained information from the FBI about Emile DeAntonio, the producer of the film, "Millhouse." Caulfield testified that he was asked to run a name check with the FBI on DeAntonio by John Dean, despite the fact that DeAntonio was not being considered at anytime for any position within the administration.

<sup>88</sup> 22 *Hearings* 10379.

<sup>89</sup> See Nofziger interview, Aug. 13, 1973.

<sup>90</sup> 3 *Hearings* 922.

<sup>91</sup> Dean interview, July 26, 1973, p. 4.

<sup>92</sup> 3 *Hearings* 1071.

<sup>93</sup> See Butterfield interview, July 13, 1973.

<sup>94</sup> 22 *Hearings* 10369.

<sup>95</sup> 21 *Hearings* 9793.

<sup>96</sup> 22 *Hearings* 10370.

Caulfield received a summary from the FBI of what their files contained, and noted in a memorandum to Dean that if Larry O'Brien "got behind" the "Millhouse" film, "we can, armed with the Bureau's information, do a Nofziger job on DeAntonio and O'Brien."<sup>97</sup> Finally, the success of "Millhouse" apparently reached such proportions that Caulfield recommended to Dean the "release of DeAntonio's FBI derogatory background to friendly media."<sup>98</sup>

Caulfield also recommended in this memo that a discreet IRS audit be done of New Yorker Films, DeAntonio, and Daniel Talbot, the distributor of the film. Caulfield testified that Dean turned down Caulfield's suggestions, but the fact that Caulfield was able to obtain access to FBI information so easily clearly poses a serious threat to the rights of individual citizens unless carefully curtailed by legislation.

#### 4. DEPARTMENT OF JUSTICE

##### *a. Antitrust Policy*

There were some suggestions made by various staff personnel to use antitrust policy to intimidate and coerce the large media conglomerates into giving more favorable coverage to the Nixon administration.

In an October 17, 1969, memorandum from Magruder to Haldeman entitled "The Shotgun Versus the Rifle," Magruder discussed the problem of perceived unfair coverage of the White House by news media:

The real problem that faces the administration is to get this unfair coverage in such a way that we make a major impact on a basis which the networks, newspapers, and Congress will react to and begin to look at things somewhat differently.<sup>99</sup>

Magruder suggested the Antitrust Division as a potentially useful agency in curbing media unfairness. He recommended that the administration:

Utilize the Antitrust Division to investigate various media relating to antitrust of violations. Even the possible threat of antitrust action I think would be effective in changing their views in the above matter.<sup>1</sup>

Jack Caulfield also recommended that the antitrust laws be used to curb the media. In a memo to John Dean on November 2, 1971, Caulfield, with the concurrence of Lyn Nofziger, recommended that antitrust action be taken against the Los Angeles Times, in response to their publication of a new street edition.<sup>2</sup> Dean requested an opinion from his aide, David Wilson, on the proposed request, but no further action was apparently taken.<sup>3</sup>

On April 14, 1972, the Antitrust Division of the Justice Department, in fact, filed an antitrust suit against the three major networks.<sup>4</sup> It is as yet unclear whether the articulated desires of some White House

<sup>97</sup> 21 *Hearings* 9829.

<sup>98</sup> See Oct. 15, 1971, memorandum from Jack Caulfield to John Dean; *Ibid.*

<sup>99</sup> See exhibit 10, p. 267.

<sup>1</sup> *Ibid.*

<sup>2</sup> 21 *Hearings* 9851.

<sup>3</sup> *Ibid.*

<sup>4</sup> See 72-819 RJK, 72-820 RJK, 72-821 RJK; U.S. District Court for the Southern District of California.

staff members expressed above had any effect on the decision to file the suit.

*b. Internal Security Division*

The Internal Security Division (ISD) of the Department of Justice was a repository of domestic "internal security" information.

Howard Hunt testified that Robert Mardian, former Assistant Attorney General in charge of the Internal Security Division, forwarded FBI investigative information on Daniel Ellsberg to the Plumbers over in the White House.<sup>5</sup>

After he left the ISD, Mardian also arranged to provide CRP with intelligence information on potential demonstrations. Mardian defended this practice in his testimony as practical and proper.<sup>6</sup> When asked if the type of information given to CRP was also available to the public, Mardian responded:

It was available under the guidelines to any entity that might be the subject of violent civil disorder and the appropriate people that should know of the potential so that they might arrest it.<sup>7</sup>

James McCord testified that the initial request for additional intelligence on demonstrators originated with Robert Odle, CRP's director of administration<sup>8</sup> In a memorandum to then-Attorney General Mitchell, Odle outlined CRP's need for additional intelligence on potentially violent disruptions at their Washington, D.C., office or at the Republican National Convention. Mardian said that Mitchell concurred in this opinion and instructed Mardian to make the appropriate arrangements.<sup>9</sup>

Mardian called John Martin, Chief of the ISD Analysis and Evaluation Section, on May 11, 1972, to tell him to expect a visit from the CRP security people.<sup>10</sup> Subsequently, CRP security chief James McCord was directed to contact Martin to obtain the needed information.<sup>11</sup>

After confirming the appropriateness of the meeting with his superiors, Martin met with McCord on May 18, 1972.<sup>12</sup> The first meeting lasted for almost an hour, and then McCord and/or his assistant, Robert Huston, met again with Analysis and Evaluation staff on May 25, May 31, and June 2, 1972.<sup>13</sup>

The files of the ISD shown to McCord included domestic intelligence from the FBI and other related sources, according to McCord. McCord reviewed these FBI reports, including one which he claimed talked about a Democratic contender's finance operation:

One such report dealt with, as I recall, a funding operation that was reported in which the McGovern committee purportedly funded a so-called barnstorming tour of several members of the Vietnam Veterans Against the War . . .<sup>14</sup>

<sup>5</sup> Hunt executive session, June 11, 1973, p. 74.

<sup>6</sup> *Hearings* 2398-99.

<sup>7</sup> *Hearings* 2399.

<sup>8</sup> *1 Hearings* 178.

<sup>9</sup> Mardian interview, June 1, 1973, p. 4.

<sup>10</sup> See ISD records; Martin interview, May 11, 1973.

<sup>11</sup> *1 Hearings* 178.

<sup>12</sup> Martin interview. See also ISD logs.

<sup>13</sup> See logs of Internal Security Division, exhibit 11, p. 273.

<sup>14</sup> *1 Hearings* 180.



Any violence to be directed against CRP by any individuals or groups might properly be disclosed to CRP security personnel and appropriate law enforcement officials. However, the free flow of information out of the Internal Security Division to the President's re-election campaign appears to have exceeded the agency's appropriate function. John Martin said that no such "intelligence information" was provided to any Democratic candidates, because the Democrats "didn't ask for it."<sup>15</sup> This is ironic since this committee received testimony that E. Howard Hunt was planning a violent demonstration for the Democratic convention.<sup>16</sup>

Use of the ISD personnel to conduct interviews for the White House during the Kleindienst confirmation hearings has been documented earlier in this report.<sup>17</sup>

### *c. Parole Board*

On December 30, 1971, Charles Colson received a telephone call from former U.S. Senator George Smathers. Smathers called Colson to request his assistance in releasing Calvin Kovens from prison prior to the May 1, 1972, date set by the parole board. As Smathers explained to Colson,

I really think that politically it's a very astute thing to do and it would not do anything but get, gain credit and commendation for the President. I can guarantee that. There's no backlash to this at all.<sup>18</sup>

Colson explained to Smathers that he would get to work on it, and immediately sent a memo to John Dean saying, "the attached is much too hot for me to handle."<sup>19</sup> Colson explained to Dean that "in view of Smathers' decision to support the President next year, \* \* \* we had better attend to this and not let it slip."<sup>20</sup>

Kovens was released from jail on January 6, 1972, and subsequently donated \$30,000 in cash to the Finance Committee for the Re-Election of the President.<sup>21</sup>

Kovens stated that his release from prison 4 months prior to his parole date was due solely to his health condition, and was the result of personal intervention by the warden of the facility at Eglin Air Force Base.<sup>22</sup>

There is no evidence before the committee that Kovens was released for political reasons or in exchange for a contribution except for the ambiguous chain of events noted above. The calls referred to above, however, indicate the willingness of White House officials to attempt to utilize supposedly independent Government agencies for political purposes.

## 5. SECRET SERVICE

Some misuse and attempted misuse of the Secret Service has already been noted in the wiretap of F. Donald Nixon in order to avoid political embarrassment to the President.<sup>23</sup> However, there were addi-

<sup>15</sup> See Martin interview, May 11, 1973.

<sup>16</sup> 10 Hearings 3983: see also section below, p. 166.

<sup>17</sup> See p. 118 *supra*.

<sup>18</sup> Conversation with George Smathers, Dec. 30, 1971, p. 2. See exhibit 12, p. 277.

<sup>19</sup> Dec. 30, 1971, memorandum from Charles Colson to John Dean attached as exhibit 12.

<sup>20</sup> *Ibid.*

<sup>21</sup> Kovens interview, Oct. 25, 1973.

<sup>22</sup> *Ibid.*

<sup>23</sup> See p. 112 *supra*.

tional instances during the course of the 1972 campaign when White House officials either sought or used information from the Secret Service obtained during the course of their official duties in protecting the Presidential candidates.

On August 16, 1972, Steve Karalekas, an assistant in the White House, wrote to Charles Colson concerning information that he had obtained indirectly from the Secret Service.<sup>24</sup> The information that was passed on to Colson was that a Secret Service agent was upset because Senator McGovern had stayed at the home of an individual in Massachusetts who was allegedly a "subversive." Karalekas also wrote that the agent had promised to continue to pass along similar kinds of information.<sup>25</sup>

As a result of this information, Colson had Dick Howard instruct John Dean to check out the facts on the suspect individual's background. Dean asked Pete Kinsey of his office to check with the White House FBI liaison to see if there was any helpful information.<sup>26</sup> There is no indication that this request was ever followed up any further.

On another occasion, a "top official" at the Secret Service brought John Dean a "small intelligence printout regarding Senator McGovern." The Secret Service official left the printout for Dean and said, "I thought that this might be of interest to you."<sup>27</sup> Dean recalled that the printout had to do with Senator McGovern attending a fundraising function in Philadelphia along with alleged former Communist supporters.

Dean said he took the document to Charles Colson who indicated that he was interested in the information. Dean said that Colson later told him that he had made arrangements to have the information published.<sup>28</sup>

Colson took the teletype report and had Joan Hall, his secretary, retype the information contained therein.<sup>29</sup> William Lambert, the same individual to whom Howard Hunt had shown the forged Diem cables, stated that he was contacted by Colson and shown a short teletypelike wire of about 12 lines in Colson's office after the Democratic convention. He also recalled that the cable said something about a fundraising meeting at an individual's house in Philadelphia.<sup>30</sup>

This political utilization by the White House of information obtained from the Secret Service during the 1972 campaign was very similar to earlier efforts by the White House to obtain information on individuals from the investigative agencies, and was an abuse of power by the White House during the 1972 campaign.

Some steps have already been taken in the Secret Service to insure that such incidents do not occur again. It is critically important to safeguard the independence of the Secret Service in order that it properly fulfill the protective function with which it is charged.

<sup>24</sup> 21 *Hearings* 9894.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

<sup>27</sup> 3 *Hearings* 923, 1071.

<sup>28</sup> *Ibid.*

<sup>29</sup> See Joan Hall interview, July 25, 1973, p. 6.

<sup>30</sup> See Lambert interview, Aug. 13, 1973.

## 6. OTHER AGENCIES

*a. Federal Communications Commission*

In his October 17, 1969, memorandum to H. R. Haldeman noted above, Jeb Magruder recommended that to cope with alleged media bias, the White House:

\* \* \* begin an official monitoring system through the FCC as soon as Dean Burch is officially on board as chairman. If the monitoring system proves our point, we have the legitimate and legal rights to go to the networks, etc., and make official complaints from the FCC. This will have much more effect than a phone call from Herb Klein or Pat Buchanan.<sup>31</sup>

Charles W. Colson also prepared a memorandum with similar objectives for Haldeman on September 25, 1970, in which he summarized the pertinent points of his meeting with the chief executives of the three major television networks. Concluding that "they are very much afraid of us and are trying to prove they are the 'good guys'," Colson recommend that he:

Pursue with Dean Burch the possibility of an interpretive ruling by the FCC on the role of the President when he uses TV, as soon as we have a majority. I think this point could be very favorably clarified and it would, of course, have an inhibiting impact on the networks and their professed concern with achieving balance.<sup>32</sup>

In the House Judiciary Committee transcript of the September 15, 1972 meeting, President Nixon discussed with Dean and Haldeman possible FCC problems for the Washington Post when its television and radio stations applied for license renewals:

HALDEMAN. The Post (unintelligible)——

PRESIDENT. It's going to have its problems——

HALDEMAN. (unintelligible.)

DEAN. (unintelligible) The networks are good with Maury coming back 3 days in a row and (unintelligible).

PRESIDENT. That's right. The main, main thing is the Post is going to have damnable, damnable problems out of this one. They have a television station——

DEAN. That's right, they do.

PRESIDENT. and they're going to have to get it renewed.

HALDEMAN. They've got a radio station, too.

PRESIDENT. When does that come up?

DEAN. I don't know. But the practice of nonlicensees has certainly gotten more——

PRESIDENT. That's right.

DEAN. more active in the, this area.

PRESIDENT. And it's going to be God damn active here.

DEAN. [Laughter]

[Silence]

<sup>31</sup> See Magruder memo, p. 2, exhibit 10, p. 268.

<sup>32</sup> See Colson memo, exhibit 13, p. 281.

These examples demonstrate the tendency of individuals in the White House to attempt to use supposedly independent agencies to achieve political ends. The following example shows how the tendency continued into the 1972 campaign.

*b. ACTION (Formerly the Peace Corps and Vista)*

Jeb Magruder wrote to Ken Reitz, director of Young Voters for the President, on November 28, 1971, that ACTION "is an agency that we should be able to use politically." Magruder recommends that a meeting be scheduled with Joseph Blatchford, ACTION's Director, where it should be suggested that he:

... do a lot of speaking on campuses and in high schools. He identified well with younger people and has the kind of program they like to hear about. We used their recruiters (who talked to 450,000 young people last year), advertising program, public relations effort, and public contact people to sell the President and the accomplishments of the administration. We should be involved and aware of everything from the scheduled appearances of ACTION's recruiters to the format and content of its advertising.<sup>33</sup>

Thus, the value of governmental agencies to the incumbent running for reelection was recognized early by CRP. This use of the incumbency is discussed more fully in a later chapter of this report.<sup>34</sup>

## H. PUBLIC RELATIONS IN THE WHITE HOUSE

### 1. INTRODUCTION

During its first 4 years, the Nixon White House initiated a wide variety of public relations efforts directed toward reelecting President Nixon in 1972. Among the more successful of these efforts were: (1) Letterwriting campaigns; (2) direct-mail operations; and (3) the organization of citizens' committees in response to specific issues. While public relations activities are an integral part of politics and campaigns, some of the activities initiated in the White House resulted in some deceptive and misleading practices which are described below.

### 2. LETTERWRITING

The letterwriting campaigns generated by the White House were designed to give the impression to the recipients of the letters of a broad base of support for positions advocated by President Nixon, while the letters also served as a vehicle for publicizing the administration's positions in various matters.

On October 11, 1969, H. R. Haldeman wrote a memorandum to Jeb Magruder and ordered a program of:

sending letters and telegrams, and making telephone calls to the senators, blasting them on their consistent opposition to the President on everything he is trying to do for the country. This program needs to be subtle and worked out well so they

<sup>33</sup> See Magruder memo, exhibit 14, p. 285.

<sup>34</sup> See section on Use of the Incumbency, Chapter 3.

receive these items from their home districts as well as other points around the country.<sup>35</sup>

This memorandum initiated the White House campaign to still criticism from Republican Senators Goodell, Percy, and Mathias.

Haldeman's handwritten notes from the bottom of a memo from Magruder to Haldeman on October 14, 1969, note that this campaign against the moderate Senators was being carried out with the awareness of the President. In part, Haldeman wrote:

\* \* \* this was an order, not a question, and I was told it was being carried out and so informed the P[resident].<sup>36</sup>

Haldeman apparently wanted to keep this letterwriting campaign against the dissident Senators secret, for he wrote across an October 16, 1969 memorandum from Jeb Magruder, "This should be reported orally—or at least in a confidential memo."<sup>37</sup>

Other letterwriting campaigns with letters sent to influential Senators and to the "letters to the editor" column of newspapers were initiated to support the nomination of G. Harrold Carswell to the Supreme Court and to support the President's speech announcing the invasion of Cambodia in May, 1970.

Shortly after the letters supporting Carswell campaign, a discreet letterwriting operation was set up at the Republican National Committee by Jeb Magruder with suggestions from Patrick Buchanan.<sup>38</sup> Betty Nolan was hired by the RNC in May, 1970, to direct the letterwriting campaign and during this time, Nolan reported to RNC officials and to Jeb Magruder at the White House through his aides, including Gordon Strachan and Ron Baukol.<sup>39</sup>

Ideas for letters came from Magruder's staff, from the RNC Office of Communications and from news stories that Nolan read. Letters were prepared, except for signatures, by Ms. Nolan and then distributed to volunteers in Washington and throughout the country who signed the letters and then sent them in as personal letters to the addressees designated by the RNC.

During the first weeks of the letterwriting program, Nolan was unable to find individuals willing to sign the ghosted letters. Nolan recalled that someone (she does not recall who) suggested that false names without addresses be used on the letters. Therefore, from May 1970 until sometime in July 1970, some falsely signed letters were sent to the newspapers.<sup>40</sup> In July, 1970, Gordon Strachan became Ms. Nolan's contact on the Magruder staff, and with advice from Strachan and help from the Young Republicans, Nolan organized a network of people to sign and mail the prepared letters, thus making false signatures unnecessary.<sup>41</sup> Subsequent letterwriting campaigns were initiated to influence key journalists such as Katherine Graham, Eric Sevareid, and some newspapers such as the Washington Star.<sup>42</sup>

In January or February 1971, Magruder assigned responsibility for the letterwriting campaign to Ron Baukol, a White House fellow. In a memorandum to Charles Colson on April 26, 1971, Baukol described

<sup>35</sup> See exhibit 15, p. 286.

<sup>36</sup> See exhibit 16, p. 289.

<sup>37</sup> See exhibit 17, p. 291.

<sup>38</sup> Magruder interview, Oct. 1, 1973, p. 1.

<sup>39</sup> Nolan interview, Sept. 3 and Sept. 28, 1973, p. 3.

<sup>40</sup> Betty Nolan interview, Sept. 28, 1973, p. 1.

<sup>41</sup> Betty Nolan interview, Sept. 28, 1973.

<sup>42</sup> See exhibit 18, p. 292.

the effort as "a true undercover operation in which letters are printed as letters from private citizens. One girl \* \* \* at the RNC \* \* \* generates 30 to 35 letters per week, of which an average of two to three are printed."<sup>43</sup> Baukol added the program was expanding "slowly, so the security of the program will not be breached."<sup>44</sup>

In February, 1972, Betty Nolan began to organize the Committee To Re-Elect the President's letterwriting campaign. Most of the early letters generated by the CRP focused upon the leading Democratic candidates. During the course of the campaign, about 50 letters a week were prepared and mailed to volunteers, with most of the letters in final form, needing only a signature before being mailed to newspapers.

After President Nixon announced on May 8, 1972, that the United States was going to mine Haiphong harbor and resume the bombing of North Vietnam, the letters operation was an integral part of the massive public relations effort undertaken by the CRP to generate support for the President's policies. CRP's response to the President's announcement is outlined in a memorandum from Rob Odle to John Mitchell, dated May 9, 1972.<sup>45</sup> Odle noted that "Betty Nolan's letters-to-the-editor apparatus began to crank up her troops and we expect over 1,200 telegrams as a result of this operation."<sup>46</sup>

Gordon Liddy, then counsel to the Finance Committee To Re-Elect the President, wrote to John Mitchell on May 15, 1972, that:

Betty Nolan hit four of the Senators with 195 letters. In addition, early yesterday morning she had over 70 letters sent to the New York Times protesting its May 10 editorial. (All other staffers were instructed at the May 11 staff meeting to write similar letters to the Times).<sup>47</sup>

Rob Odle, former Director of Administration for CRP, testified before the Select Committee that "[t]he entire campaign apparatus that week went to work in support of what happened."<sup>48</sup> Issues of newspapers running polls on the President's actions were bought en masse by the CRP, and the poll responses were mailed in to tilt the results toward the President. In addition, a full-page advertisement was placed in the New York Times on May 17, 1972, by a group of citizens supporting the President's decision to mine Haiphong harbor.<sup>49</sup> This ad was paid for with \$4,400 in cash from CRP and prepared by the November group, the advertising arm of CRP. Charles Colson admitted that he "reviewed the draft and probably made changes in it" to the GAO. Neither the source of funds nor the group that actually wrote the advertisement was indicated in the body of the advertisement itself, an apparent violation of 18 U.S.C. 612, the criminal statute governing publication of political statements.<sup>50</sup>

Finally, as part of CRP's campaign to generate support for the President's actions, Howard Hunt called Donald Segretti in Los Angeles on May 8, 1972. Hunt said the President was about to take very decisive action in Vietnam and asked Segretti to put together

<sup>43</sup> See exhibit 19, p. 298.

<sup>44</sup> *Ibid.*

<sup>45</sup> See exhibit 20, p. 301.

<sup>46</sup> *Id.* at p. 3.

<sup>47</sup> See exhibit 21, p. 305. Liddy's memorandum also described a motorcade to support the President's action in Miami, Fla., that received heavy support in a Cuban community.

<sup>48</sup> 1 *Hearings* 68.

<sup>49</sup> See exhibit 22, p. 309.

<sup>50</sup> See GAO report to Department of Justice, May 3, 1973, pp. 1-2.

support for the President's policies to counter the expected reaction of the peace groups.<sup>51</sup> Segretti called his main operatives in Florida, Robert Benz and Doug Kelly<sup>52</sup> and instructed them to set up tables for people to sign telegrams to the White House supporting the President. Segretti sent two telegrams to the White House that contained several hundred false signatures. None of the individuals whose names were on the telegrams had, in fact, approved of the use of his or her name.<sup>53</sup>

#### PRESIDENT'S INTEREST

It is significant to note that a March 9, 1970, memorandum to Magruder from Haldeman succinctly characterized the President's interest in such activities. Haldeman asked Magruder to prepare for him:

\* \* \* once every 2 weeks, a summary of the various hatchetman operations—letter to the editors, counterattack, etc, so that I can report to the President on the activity in this regard.<sup>54</sup>

#### 3. DIRECT MAILING

At the request of the White House Office of Communication, the RNC built a series of mailing lists for editors, media, governors, Congressmen, and political figures which were made available to offices at the White House as well as the RNC.<sup>55</sup>

Beginning in mid-1970, direct mail requests were received usually from Herb Klein's office, but as the Presidential campaign progressed, Charles Colson's office began ordering more direct mailings.<sup>56</sup> From its formation, the Committee To Re-Elect the President also utilized RNC mailing facilities for the reproduction and distribution of political materials.

The primary deceptive practice found in the direct mail operation was the concealment of the true source of some of the letters and mailings that were distributed. Some letters were distributed that were printed on private or business stationery of the individuals involved, but the letters failed to acknowledge that the costs of preparation, duplication, and distribution were not borne by the individuals sending out the letter. For example, a letter from former Senator George A. Smathers endorsing President Nixon for re-election was sent out by the direct mail operation of the RNC to thousands of individuals. Written instructions to Diana Burns, the individual in charge of the direct mailing operation, directed her to change the letter in any manner necessary to alter its appearance beyond identification as coming from RNC.<sup>57</sup> Other examples of distribution without mention of a source were also found. A reprint of a newspaper article indicating that Representative Pete McCloskey would consider backing a third party candidate was set up with mail room specifications indicating that the articles should be mailed in "plain No. 10 envelopes" with commemorative or unusual stamps to disguise the source of the mailing to top newspaper and political figures.<sup>58</sup> Another example of a disguised

<sup>51</sup> See Segretti interview and witness summary, p. 8.

<sup>52</sup> Segretti witness summary, p. 8.

<sup>53</sup> 10 *Hearings* 3995; Segretti interview notes and witness summary, p. 9.

<sup>54</sup> See exhibit 23, p. 310.

<sup>55</sup> Memorandum from Herbert Klein to Harry Dent, Brice Harlow, and Lyn Nofziger, Nov. 4, 1969.

<sup>56</sup> Diana Burns interview, Aug. 14, 1973.

<sup>57</sup> Memo to Diana Burns, Mar. 22, 1971, exhibit 24, p. 311.

<sup>58</sup> RNC mailroom files—instructions dated Nov. 29, 1971.

source of distribution was the reproduction of an International Brotherhood of Teamsters news service press release reporting the executive board endorsement of President Nixon for re-election. One thousand copies of this release were mailed by the RNC in plain, hand-addressed envelopes.<sup>59</sup>

Such procedures to disguise the true source of these direct mailings would appear to violate the spirit, if not the letter, of the law as defined in the United States Code, title 18, section 612, which provides:

§ 612. *Publications or distribution of political statements*

Whoever willfully publishes or distributes or causes to be published or distributed, or for the purpose of publishing or distributing the same knowingly deposits for mailing or delivery or causes to be deposited for mailing or delivery, or, except in cases of employees of the Postal Service in the official discharge of their duties, knowingly transports or causes to be transported in interstate commerce any card, pamphlet, circular, poster, dodger, advertisement, writing, or other statement relating to or concerning any person who has publicly declared his intention to seek the office of President, or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to Congress, in a primary, general, or special election, or convention of a political party, or has caused or permitted his intention to do so to be publicly declared, which does not contain the names of the persons, associations, committees, or corporations responsible for the publication or distribution of the same, and the names of the officers of each such association, committee, or corporation, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

#### 4. CITIZENS COMMITTEES

Another aspect of the White House public relations program was the establishment of special citizens committees to generate support for the President on specific issues. Executive directors for these committees were usually found in the Washington area, and financial supporters were recruited by the White House. Financial support for the citizens committees came from many prominent contributors.<sup>60</sup> However, the White House role in establishing and operating these citizens' committees was never publicly acknowledged. Advertisements supporting the President were edited, sometimes written, and reviewed by individuals in the White House.<sup>61</sup>

Brief descriptions follow of some of the "citizens committees" established through White House efforts:

##### *a. Tell It To Hanoi Committee*

The "Tell It To Hanoi Committee" was organized after President Nixon's announcement of the invasion of Cambodia in May 1970. Financial support came from Jack Mulcahy, a heavy contributor to the 1970 Presidential campaign and its chairman was William J. "Pat" O'Hara, a New York attorney.

<sup>59</sup> See exhibit 25, p. 314.

<sup>60</sup> Jeb Magruder interview, Oct. 1, 1973.

<sup>61</sup> *Ibid.*



Numerous memorandums attest to the close relationship between this "independent citizens committee" and the White House. Invoices for services from the advertising agency placing the ads were forwarded to Jeb Magruder at the White House, but Magruder says they were paid for by the citizens committee and not from White House funds.<sup>62</sup>

In a May 5, 1970, memorandum to the President, Magruder reported that the "Tell It To Hanoi Committee" had placed advertisements in more than 40 newspapers and sent more than a million pieces of mail asking for public support.<sup>63</sup> None of the advertisements identified the role of the White House in preparing this information.

### *b. Citizens Committee To Safeguard America*

This group was formed to support the President's policies on the proposed antiballistic missile system and was responsible for placing a number of full-page newspaper advertisements supporting the ABM system. Haldeman wrote to Magruder on August 6, 1970, that President Nixon was especially pleased with the "Safeguard ad" and that whoever had written it should be complimented. A hand-written note on the bottom of the memorandum by Rob Odle says "Colson says he did it."<sup>64</sup>

The value to the White House of such independent citizens committees is clear: They provided a means of persuading the populace to support administration policies without identifying the White House backing for them, and, more importantly, they created the impression that independent groups supported White House policies. Another advantage of these "independent" citizens committees was illustrated in a December 1, 1970, memorandum on political polling from Larry Higby to Herb Klein.<sup>65</sup> To make the White House-sponsored polls effective, Higby stated, "... we need other organizations that we can hang the polls on that will have credibility."<sup>66</sup> A list of possible "independent" groups that could be used for polling was attached to the memorandum; it included that "Tell It To Hanoi" committee and the "Committee for a Responsible Congress," both creations of the White House.

The success of the "Tell It to Hanoi Committee" and the "Committee To Safeguard America" led to the formation by the White House of "citizens committees" to attack key Senatorial candidates in the 1970 Congressional elections. In a June 17, 1970, memorandum to Jeb Magruder, Larry Higby urged the formation of citizens committees to run advertisements attacking Senate opponents of the administration.<sup>67</sup>

### *c. Committee for a Responsible Congress*

One such group was the "Committee for a Responsible Congress." Jeb Magruder said that a series of "negative ads" aimed at the

<sup>62</sup> Magruder interview, Oct. 1, 1973. Records of the Ayer/Jorgensen/MacDonald Agency show that on an account of \$193,000, exactly \$178,000 was paid to the agency by the "Tell It To Hanoi Committee." The remaining balance was covered by four checks from the Republican Campaign Committee and the Republican Finance Committee. See exhibit 26, p. 316.

<sup>63</sup> See exhibit 27, p. 317.

<sup>64</sup> See exhibit 28, p. 320.

<sup>65</sup> See exhibit 29, p. 322.

<sup>66</sup> *Ibid.*

<sup>67</sup> See exhibit 30, p. 324.

"radical-liberals" in Congress was proposed by Charles Colson, who prepared much of the copy, and the ads were placed by the "Committee for a Responsible Congress."<sup>68</sup>

Carl Shipley, a Republican National Committeeman, was enlisted by White House staff as the treasurer of this committee.<sup>69</sup> Shipley recruited six other people to serve on the committee, giving them his word that it was a legitimate request and that he was calling at the instruction of the White House.<sup>70</sup> None of the committee members ever solicited or contributed any money in support of the advertisements.

Shipley said he first saw the copy for the ads that were placed at a meeting in the Executive Office Building attended by Magruder and Colson, representatives of an advertising agency, and possibly Haldeman or Ehrlichman. Neither he nor any of the other committee members was ever contacted as to the content or target of the advertising.<sup>71</sup>

*d. Committee for the Congress of 1970*

The committee for the Congress of 1970 was similarly established to place a series of positive advertisements supporting congressional candidates favorable to the Nixon administration. Its treasurer was Alexander Lankler, the former State chairman of the Maryland Republican Party. Lankler recalled that he was called by Charles Colson and asked if he would lend his name to a series of political advertisements.<sup>72</sup>

Money for the advertisement was given to Lankler by the White House and forwarded by him to Ayer/Jorgensen/MacDonald, Inc., the same advertising agency that handled the "Tell It to Hanoi" account.<sup>73</sup> Lankler does not recall who delivered the cash to him, although he did recall that \$80,000 in cash was received via Colson's authorization.<sup>74</sup>

Despite their lack of success in the 1970 congressional elections, the White House public relations people favored the formation of citizens committees in the 1972 Presidential election. Rob Odle, discussing campaign organization in an October 29, 1971, memorandum to the Attorney General, reviewed the work of committees like "Tell It to Hanoi" and suggested other citizens committees that could be used in the 1972 campaign.<sup>75</sup>

Patrick Buchanan, in a March 14, 1972, memorandum to John Mitchell, also recommended that citizens committees be established to attack political opponents. Buchanan suggested the following scenario:

. . . soon after the Democratic Convention there be established one general committee with an odd sounding name, and other committees tailored to specific issues, i.e. "United States Security Council," which can then be mailed in bulk to GOP or citizens groups for distribution in target states. Chuck

<sup>68</sup> Magruder interview, Oct. 1, 1973.

<sup>69</sup> Shipley interview, Oct. 15, 1973.

<sup>70</sup> Shipley stated that some of the people contacted refused to join the committee and that he told them their refusal to participate would be communicated to the White House staff. Shipley interview, Oct. 15, 1973.

<sup>71</sup> *Ibid.*

<sup>72</sup> Alexander Lankler interview, Oct. 10, 1973.

<sup>73</sup> *Ibid.*

<sup>74</sup> *Ibid.*

<sup>75</sup> See exhibit 31, p. 325.

Colson's shop could have such, one imagines, established in a matter of hours.

The specific committee should zero in on issues—depending on the Democratic candidate—where the opposition is especially vulnerable. For example, were Muskie the nominee, we would have a committee on defense of the United States, one on space, one on aid to nonpublic schools, etc.<sup>76</sup>

The "Citizens Campaign" in 1972 consisted of numerous committees, ranging from the "Massachusetts Lawyers Committee for the Re-election of the President" to "Nursing Homes for Nixon-Agnew."<sup>77</sup> Two examples are discussed below.

#### *e. Labor for America Committee*

Charles Colson requested the formation of a dummy committee as a vehicle through which a mailing to labor could be funded.<sup>78</sup>

In October 1972, a registration form and statement of organization was submitted to the General Accounting Office (GAO) for the "Labor for America Committee," which stated that the committee supported President Nixon's reelection. The committee's address was a local post office box rented by Mrs. Myles Ambrose, wife of the former Commissioner of Customs. In its filing with the GAO, the Labor Committee indicated receipt of a \$4,400 contribution from the FCRP. This money was used to reprint a brochure entitled "Why Labor Can't Support George McGovern," which was a reproduction of an unsigned pamphlet circulated at the Democratic National Convention attacking McGovern's voting record on issues affecting labor.<sup>79</sup>

The reprinting and distribution of this pamphlet by a purportedly labor-affiliated organization enhanced the credibility of the contents. Were the same charges to have been published directly by the Committee To Re-Elect the President, the impact of the charges would have been diminished.

#### *f. Citizens for a Liberal Alternative*

There were also "citizens committees" which had no members at all. The "Citizens for a Liberal Alternative" was such a dummy committee.

In the late fall of 1971, Bart Porter stated that Jeb Magruder told him to contact Ken Khachigian, a White House speechwriter, about a pamphlet the White House wanted distributed.<sup>80</sup> Magruder instructed Porter to have the pamphlet printed and mailed to a group of leading liberals. While Ken Khachigian prepared the pamphlet in the White House, the pamphlet purported to be from the "Citizens for a Liberal Alternative." The pamphlet attacked Senator Muskie on a variety of issues thus appearing to come from a group of liberal Democrats. According to Khachigian, Pat Buchanan edited Khachigian's draft before it was printed in final form.<sup>81</sup>

<sup>76</sup> 10 *Hearings* 4216. Written in the margin of the memo are Mitchell's comments, "Good. Put Colson in charge."

<sup>77</sup> General Accounting Office Published Record.

<sup>78</sup> See exhibit 32, p. 336.

<sup>79</sup> 10 *Hearings* 3934. The brochure is at 10 *Hearings* 4061. Buchanan testified that this unsigned brochure was widely distributed at the Democratic Convention by George Meany and Alexander Barkin (10 *Hearings* 3958).

<sup>80</sup> Porter interview, Sept. 6, 1973.

<sup>81</sup> A copy of the pamphlet is at 10 *Hearings* 4055-58. Patrick Buchanan's testimony on this incident is at 10 *Hearings* 3922.

Porter received the final draft from Khachigian and asked Tom Bell, a staff member of the Young Voters for the President, to have 1,000 copies printed up in 72 hours.<sup>82</sup> All the negatives from the pamphlet were returned to Porter because of the secrecy Porter demanded.<sup>83</sup> Following Magruder's directions, Porter had the pamphlet mailed to about 400 "liberals" around the country.<sup>84</sup> A plan for Roger Greaves, "Sedan Chair I," to distribute some of the pamphlets<sup>85</sup> at a Muskie fundraising dinner in Beverly Hills fell through when the dinner was canceled.<sup>86</sup>

This bogus pamphlet also found its way to the New Hampshire primary. In February 1972, Porter instructed Roger Stone, a scheduler at CRP, to fly to New Hampshire with a copy of the pamphlet and to place it in the headquarters of Senator George McGovern. Stone left the pamphlet on a table in the McGovern headquarters in Manchester, New Hampshire, and then went to the offices of the Manchester Union Leader, where he told the political editor that he had found literature in McGovern headquarters. Stone said he expressed outrage to the editor that the McGovern campaign was capable of printing such trash.<sup>87</sup> Berl Bernhard, Senator Muskie's campaign manager, testified that the pamphlet from the Citizens for a Liberal Alternative "appeared in a number of different places in New Hampshire."<sup>88</sup>

Finally, Donald Segretti received 500 to 1,000 copies of this same pamphlet sometime after the Florida primary, and sent them to some of his agents, who presumably distributed them.<sup>89</sup>

## II. 1972 CAMPAIGN

### A. POLITICAL STRATEGY

The political strategy of the Committee to Re-Elect the President in early 1971 and 1972 was unambiguous: undercut Senator Muskie in the Democratic primaries, divide the Democratic Party so that it could not unite after the convention, and assist where possible in getting the weakest Democratic candidate nominated. The absence of a serious fight for re-nomination gave the CRP and the White House the luxury of focusing their political efforts during this period on potential Democratic opponents rather than serious primary contenders within their own party. In the meantime, the various Democratic contenders had to concentrate their own political efforts on obtaining their party's nomination.

The Nixon strategy was best embodied in a series of political memorandums written by speechwriter Patrick Buchanan and his assistant, Ken Khachigian.<sup>90</sup> The early concern with Senator Muskie resulted

<sup>82</sup> Bart Porter interview, Sept. 6, 1973, p. 22. See also Bell interview, Aug. 15, 1973. Bell recalls that only 500 copies of the pamphlet were ordered.

<sup>83</sup> Bell interview, Aug. 15, 1973.

<sup>84</sup> Porter interview, Sept. 6, 1973, p. 22.

<sup>85</sup> The plan was Magruder's or Khachigian's idea according to Porter. Porter interview, Aug. 20, 1973, p. 13.

<sup>86</sup> Roger Greaves interview, Aug. 21, 1973.

<sup>87</sup> Roger Stone interview, Aug. 15, 1973.

<sup>88</sup> 11 *Hearings* 4671; see also testimony of Frank Mankiewicz that he observed the pamphlet in New Hampshire. 12 *Hearings* 4611-12.

<sup>89</sup> 10 *Hearings* 3994. It should also be noted that Stewart Mott placed some advertisements from a "Committee for Honesty in Politics" in the 1972 campaign. However, Mott paid for these ads and personally signed every one of them. (Mott Executive Session, Oct. 5, 1973.)

<sup>90</sup> See 10 *Hearings* 4114-4263 for a full exposition of these memorandums.

from a series of public opinion polls in April, May, and June of 1971, which showed Senator Muskie leading both President Nixon and Governor Wallace in a three-way race.<sup>91</sup> Buchanan outlined a "Muskie" strategy in a lengthy memorandum to President Nixon on March 24, 1971. Buchanan proposed creating a "Muskie Watch," "an operation working perhaps within the Republican National Committee, which may even be a publicized operation, doing constant research on Ed [Muskie] and putting out materials to interest groups, and to the press."<sup>92</sup>

A few months later, Buchanan wrote:

Thus, Senator Muskie is target A as of midsummer for our operation. Our specific goals are (a) to produce political problems for him, right now, (b) to hopefully help defeat him in one or more the primaries (Florida looks now to be the best early bet, California, the best later bet), and (c) finally, to visit upon him some political wounds that will not only reduce his chances for nomination—but damage him as a candidate, should he be nominated.<sup>93</sup>

The strategy Buchanan advocated was to force Muskie to take more stands on controversial issues and to have President Nixon attack Muskie "on those issues that divide Democrats."<sup>94</sup> The anti-Muskie plan involved much "negative campaigning" against the Senator rather than positive campaigning on behalf of President Nixon. In addition, such a strategy would subject Muskie to the "pressures and harassments that go with being a front runner, pressures and harassments he is not getting today."<sup>95</sup>

In addition, Buchanan advocated concentrating on dividing the Democrats so that they would be unable to unite for the general election. In a July 2, 1971 memo, Buchanan advised:

[We] maintain as guiding political principle that our great hope for 1972 lies in maintaining or exacerbating the deep Democratic rift between the elite, chic, New Left, intellectual avant garde, isolationist, bell-bottomed environmentalist, new priorities types on the one hand—and the hard hat, Dick Daley, Holy Name Society, ethnic, blue collar, Knights of Columbus, NYPD, Queens Democrats on the other.

The liberal Democrats should be pinioned to their hippie supporters. The Humphrey Democrats should be reminded of how they were the fellows who escalated and cheered the war from its inception.<sup>96</sup>

This "attack strategy" of dividing the opposition was a main tenet of political faith both at the White House and the CRP throughout the 1972 campaign.

By April 12, 1972, Buchanan observed, "Our primary objective, to prevent Senator Muskie from sweeping the early primaries, locking up the convention in April, and uniting the Democratic Party behind him for the fall, has been achieved."<sup>97</sup> Further on, in the same memo-

<sup>91</sup> 11 *Hearings* 4637.

<sup>92</sup> 10 *Hearings* 4146, 4153.

<sup>93</sup> 10 *Hearings* 4186.

<sup>94</sup> 10 *Hearings* 4148.

<sup>95</sup> 10 *Hearings* 4147.

<sup>96</sup> 10 *Hearings* 4183.

<sup>97</sup> 10 *Hearings* 4225.

randum, Buchanan rhetorically raised the question of "whom [do] we want to run against."<sup>98</sup> Buchanan's clear choice was Senator George McGovern. Later in April, Buchanan noted, "we must do as little as possible at this time to impede McGovern's rise."<sup>99</sup>

The above strategy, while not improper in itself, was ultimately converted by others into the dirty tricks outlined below. The various operatives and agents of the White House and the CRP also had three major objectives in the 1972 campaign: to weaken Senator Muskie, to divide the Democrats, and to nominate the weakest Democratic candidate.

The absence of primary opponents for President Nixon allowed his political strategists to target their efforts on the Democrats. The abundance of money in the CRP allowed the political operatives to set up a concerted effort to infiltrate and interfere with the Democratic primaries. The result was a campaign to reelect President Nixon that was filled with illegal, improper, and unethical activity, much of which is described below.

## B. IMPLEMENTATION OF WHITE HOUSE AND CRP STRATEGY

### 1. DONALD SEGRETTI

#### *a. Hiring*

In early 1971, Gordon Strachan and Dwight Chapin, both staff aides in the White House working for H. R. Haldeman, discussed the need for a "non-Colson dirty tricks operation in the field" for the 1972 campaign.<sup>1</sup> Strachan said that Chapin explained that he and Buchanan had been involved in some 1968 campaign pranks such as a false mailing sent out in the New Hampshire primary,<sup>2</sup> but that it would be a good idea if the operation were moved from the White House in 1972.

As a result, a meeting held in the early summer of 1971 among Chapin, Strachan, Buchanan, Khachigian, and Ron Walker, head of White House advance operations, to discuss how to structure a political prankster operation in the field for the 1972 campaign. Buchanan testified that he advised the group that "it should be a small operation, and that because of 1971 \* \* \* it ought to be under the Committee To Re-Elect the President."<sup>3</sup>

Strachan and Chapin agreed that Donald Segretti, an old college friend of theirs from USC, would be a good candidate for the job of pulling pranks to disrupt the Democratic Presidential primary campaigns. Segretti was first contacted by Dwight Chapin in the spring of 1971 about possible employment following his release from the Army.<sup>4</sup> Segretti at that time expressed some interest in a possible job, since both his friends worked in the White House and since he thought that the job might include exciting work.

<sup>98</sup> *Ibid.*

<sup>99</sup> 10 *Hearings* 4235.

<sup>1</sup> Strachan interview, Aug. 13, 1973.

<sup>2</sup> *Id.* at p. 1.

<sup>3</sup> 10 *Hearings* 3923.

<sup>4</sup> In informal interviews, Segretti noted that Strachan first called him in January 1971 on a purely social basis, and that Chapin contacted him in April 1971, about possible White House employment. Strachan claims that Segretti first contacted him about finding a job. See also transcript of *U.S. v. Chapin*, p. 220.

Segretti stayed in touch with Chapin and Strachan during the next few months, and flew to Washington, D.C., to meet with them in late June 1971.<sup>5</sup> Segretti met with Chapin and Strachan twice on this visit—once at dinner at Chapin's house, and again the following day at lunch. At these meetings, Strachan and Chapin explained to Segretti that his job would be to perform political pranks that would aid in the reelection of President Nixon.<sup>6</sup> Segretti was given \$400 in cash from Gordon Strachan to cover his expenses for this trip. Strachan and Chapin also cautioned Segretti not to discuss this matter with anyone else if he were not interested. But Segretti expressed great interest in the job, since it seemed to involve exciting work, and after this meeting, he began to contact old friends about the possibility of doing some work for the Nixon campaign.

Meanwhile, Strachan and Chapin obtained Haldeman's approval for the project to insure that Segretti could be paid from leftover 1968 campaign funds. Mr. Haldeman specifically approved having a person in the field to disrupt the Democratic primary campaigns, and specifically approved the hiring of Mr. Segretti.<sup>7</sup> In late August 1971, Haldeman and Strachan met with Herbert Kalmbach. Strachan testified that Haldeman directed Kalmbach to pay the salary and expenses of Segretti.<sup>8</sup>

Strachan then told Segretti to contact Herbert Kalmbach in Newport Beach, Calif., for the purpose of finalizing his employment. Segretti met Kalmbach in late August 1971, and was offered a salary of \$16,000 a year plus expenses for his activities.<sup>9</sup> Segretti said he was not sure if he was to be working for Mr. Kalmbach, Mr. Chapin, or others.<sup>10</sup>

Following his meeting with Kalmbach, Segretti had lunch with Dwight Chapin not far from the Western White House in San Clemente, Calif. During this meeting, Chapin gave Segretti a list of cities and States on which to concentrate in the upcoming Presidential primary campaigns. Segretti said that Chapin stressed to him the secrecy of his duties, and said that his activities should be focused on fostering a split among the various Democratic candidates to prevent the Democratic Party from uniting behind one candidate after the convention.<sup>11</sup>

Chapin also emphasized to Segretti the importance of having media impact in Segretti's activities. For example, Segretti said Chapin suggested that he have pickets with Humphrey signs at Muskie rallies. Segretti said Chapin also suggested putting out phoney press releases.<sup>12</sup>

<sup>5</sup> 10 *Hearings* 3985.

<sup>6</sup> 10 *Hearings* 3980.

<sup>7</sup> 7 *Hearings* 2877: Haldeman testified, "I agreed that if this man wanted to take on this activity, Herbert Kalmbach should arrange for his compensation and expenses from the 1968 campaign fund surplus.

"It was my clear understanding that Segretti would act independently and on his own initiative within the broad guidelines outlined above. It was also my clear understanding that he was to engage in no illegal acts. Mr. Strachan has told me that he was so advised and that he understood that. I had no specific knowledge of Segretti's activities or the details of how or with whom he worked. I do not believe that there was anything wrong with the Segretti activity as it was conceived. I have only limited knowledge, and that acquired only lately, as to how it was actually carried out." *Ibid.*

<sup>8</sup> 6 *Hearings* 2502.

<sup>9</sup> 10 *Hearings* 3980.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> See Segretti witness summary, p. 3.

Chapin emphasized to Segretti that he should focus his efforts on Senator Edmund Muskie, the Democratic front-runner at that time.<sup>13</sup> Segretti said that Chapin further explained that his objective should be to give the President his best chance for reelection in November 1972, by seriously weakening the leading Democratic candidate, Senator Edmund Muskie. If that could be accomplished, the Democrats would have a bitter fight over the nomination and would never be able to recover in time for the general election.<sup>14</sup>

The alternative objective of Segretti's activities was to divide the Democratic candidates among themselves to create bitterness and mistrust among the Democrats.<sup>15</sup>

Following this meeting with Chapin in California, Segretti began contacting old friends of his in California and elsewhere about doing political work in the upcoming campaign. After his release from the Army on September 13, 1971, Segretti received a telephone call from Dwight Chapin. Chapin informed Segretti that Strachan would no longer be involved in the operation. Chapin also explained to Segretti that they would leave messages for one another under the aliases of Don Morris (for Segretti) and Bob Duane (for Chapin).<sup>16</sup> At Chapin's request, Segretti flew to Washington, D.C., and met Chapin in the dining room of the Hay-Adams.<sup>17</sup>

At that meeting, Chapin suggested to Segretti that he get both a post office box where he could receive mail from Chapin and an answering service so that he could be reached at all times. In addition, Segretti said Chapin gave him a list of the 1968 advancemen from Nixon's Presidential campaign so that Segretti could begin making contacts in the appropriate primary States. Segretti testified that Chapin stressed he should not say or do anything which would link his activities to Chapin, the White House, the Republican Party, or the Committee To Re-Elect the President. Chapin also gave Segretti the name of Ward Turnquist, an old high school friend of Chapin's as a possible contact in southern California.<sup>18</sup>

Chapin directed Segretti to fly to Portland, Oreg., the following day, preceding the President's visit there, to observe a Presidential advance. Segretti flew to Portland on September 24, 1971, and stayed at the Benson Hotel.<sup>19</sup> There he was able to familiarize himself with the advance operation and the means used to handle demonstrators.<sup>20</sup>

On the morning of Sunday, September 26, Segretti met with Chapin in Segretti's room at the hotel. At that time, Chapin gave Segretti a copy of the Advanceman's Manual, and they had further general discussions about Segretti's activities.<sup>21</sup>

After his meeting with Chapin, Segretti returned to Los Angeles and received his first payment from Kalmbach, a check for \$5,000 as an advance on his expenses, and a check for \$667 for his 2 weeks' salary.

<sup>13</sup> 10 *Hearings* 3987.

<sup>14</sup> Segretti witness summary, p. 2.

<sup>15</sup> 10 *Hearings* 4001.

<sup>16</sup> 10 *Hearings* 3989. In fact, Chapin actually left messages for Segretti under the name of "Chapman."

<sup>17</sup> See *U.S. v. Chapin*, p. 231 of transcript.

<sup>18</sup> *United States v. Chapin*, p. 233 of the transcript. See also Segretti interview, p. 3.

<sup>19</sup> See Segretti interview and hotel records.

<sup>20</sup> 10 *Hearings* 3990.

<sup>21</sup> *Ibid.* Segretti was not certain whether he received the Advanceman's Manual in Washington, D.C., or in Portland, Oreg., see p. 234 of *United States v. Chapin*.



Following the Presidential appearance in Portland, Chapin wrote Segretti a memorandum which said:

From now on, we want to have at least one Muskie sign in among demonstrators who are demonstrating against the President. It should be "Muskie for President" and should be held in a location so that it is clearly visible.

At Muskie events or events by other Democratic hopefuls, there should be a sign or two which goads them. For example, at a Muskie rally, there should be a large "Why Not a Black Vice President" or perhaps "We Prefer Humphrey" or something else that would goad him along.

At Humphrey rallies, there should be Muskie signs and at Kennedy rallies there should be Muskie or Humphrey signs, and so on. These signs should be well placed in relationship to the press area so that a picture is easy to get.<sup>22</sup>

### *b. Activities*

#### *(1) Summary*

After his meeting with Dwight Chapin at the Benson Hotel in Portland, Segretti set off across the country to recruit individuals to infiltrate and disrupt the upcoming Democratic Presidential primaries. Segretti traveled to more than 16 States and contacted at least 80 individuals in his efforts to establish an organization that was capable of dividing the Democrats during their primaries.<sup>23</sup>

Segretti received \$45,336 from Herbert Kalmbach in the period from September 29, 1971, until March 23, 1972.<sup>24</sup> Of this total, Segretti had expenses of more than \$22,000,<sup>25</sup> and almost \$9,000 of these expenses went to 22 individuals that Segretti had contacted during his travels.<sup>26</sup>

Segretti's objective in making contacts was to organize a network of agents in the following States: New Hampshire, Florida, Illinois, Wisconsin, Pennsylvania, Ohio, Indiana, California, New Jersey, New York, and Texas. Almost all of these States had Presidential primaries in 1972, and they were listed for Segretti when he met with Chapin at San Clemente in the late summer.

#### *(2) Relationship with Chapin*

During the early period of his travels, Segretti kept in fairly close contact with Dwight Chapin. For example, Segretti called Chapin thirty-three times in November, December, and January.<sup>27</sup> Segretti

<sup>22</sup> 10 *Hearings* 4269.

<sup>23</sup> Information gathered from review of Segretti documents and interviews with Segretti and contacts.

<sup>24</sup> Segretti cash inflow: Sept. 29, 1971, \$667, check from Kalmbach; Sept. 29, 1971, \$5,000, check from Kalmbach; Oct. 19, 1971, \$667, check from Kalmbach; Oct. 27, 1971, \$667, check from Kalmbach; Nov. 11, 1971, \$667, check from Kalmbach; Nov. 29, 1971, \$667, check from Kalmbach; Dec. 13, 1971, \$667, check from Kalmbach; Dec. 27, 1971, \$667, check from Kalmbach; Jan. 17, 1972, \$667, check from Kalmbach; Jan. 15, 1972, \$5,000, cash; Mar. 1, 1972, \$5,000, cash from A. Harvey; Mar. 23, 1972, \$25,000, cash from Kalmbach. Total, \$45,336.

<sup>25</sup> Segretti expenses (1971-72): Travel, \$6,019.51; telephone, \$2,099.56; printing and mailing, \$1,816.43; accommodations, \$1,555.80; meals, \$616.68; office expense, \$1,331.39; subtotal, \$13,439.37; payments to operatives, \$8,984.70; total expenses, \$22,424.07.

<sup>26</sup> Payments to Segretti operatives: Benz, \$2,417; Burdick, \$335; Collins, \$5; Frias, \$20; Garner, \$265; Gratz, \$50; Hayes, \$31.50; Kelley, \$3,436; Martin, \$122; Miller, \$22; Nolley, \$40; Norton, \$451.20; O'Brien, \$40; Oldman, \$20; Popovich, \$130; Sarhad, \$165; Silva, \$140; Staub, \$50; Svihlik, \$200; Turnquist, \$80; Visney, \$710; Zimmer, \$255; total, \$8,984.70.

<sup>27</sup> 10 *Hearings* 4314.

used the pseudonyms of Don Durham and Don Simmons, since Chapin had strongly suggested to him to maintain secrecy in his operation and to divorce totally the White House in his activities.

During these first few months' activities, Segretti occasionally received information and directions from Chapin. For example, Chapin informed Segretti when Senator Muskie would be in Los Angeles in November 1971, and asked him to line up some pickets for the appearance. Later on, Segretti said he was told by Chapin that Senator Muskie would be appearing at Whittier College and was asked by Chapin to provide pickets and hecklers in the crowd. A few days later, Segretti arranged for pickets outside of a San Francisco Hotel where Senators Muskie and Humphrey were appearing at a Democratic dinner.

Following Senator Muskie's appearance at Whittier College in November 1971, Segretti received in the mail a copy of the White House news summary from Chapin which said, "Reynolds said that he [Muskie] had come prepared for conservative questions, but the Chicanos gave him no chance and Big Ed proved that he can keep his cool."<sup>28</sup> Penciled in on the side of the copy is a note from Chapin which reads: "Note we really missed the boat on this—obviously the press now wants to prove EM can keep his temper—let's prove he can't."<sup>29</sup>

In early November 1971, Chapin instructed Segretti to travel to New Hampshire and begin work since it was the first primary State.

Chapin also gave Segretti the name of Allen Walker, chairman of the New Hampshire Committee To Re-Elect the President. Segretti said that Walker seemed very receptive to his ideas, and that he felt so much at ease with Walker that he gave him his true name.<sup>30</sup> Shortly thereafter, Segretti received a phone call from Dwight Chapin who told him to leave New Hampshire immediately. Segretti traveled to Washington and met with Chapin in Segretti's hotel room. Chapin told Segretti to stay out of New Hampshire, move on to Florida and never again to use his real name.<sup>31</sup>

Chapin had general knowledge of much of Segretti's activities.<sup>32</sup> Segretti testified that most of the literature, bumper stickers, and false letters that were distributed by Segretti were sent to Chapin's home in Washington after they were printed up. In addition, Segretti sent newspaper clippings to Chapin concerning his field activities as well as hand-written notes explaining his activities of the previous week. Chapin's reactions to Segretti's activities were always very positive and Segretti has no recollection of the issue of the legality of Segretti's activities ever being discussed with Chapin.<sup>33</sup> Segretti specifically recalls sending Chapin the "Muskie Bussing" poster, the sex smear letter on Muskie stationery against Senators Jackson and Humphrey and the Humphrey press release about Shirley Chisholm (all discussed below).

During the months of December, January, and February, Segretti raised many doubts in the minds of people that he was recruiting.

<sup>28</sup> 10 *Hearings* 4271-72.

<sup>29</sup> *Ibid.*

<sup>30</sup> 10 *Hearings* 3993.

<sup>31</sup> *Ibid.*

<sup>32</sup> See Segretti testimony, 10 *Hearings* 3979-4053; see also Segretti and Chapin testimony in *U.S. v. Chapin*.

<sup>33</sup> Segretti witness summary, p. 6.

Many of these individuals—Young Republicans, College Republicans, and Young Voters for the President—relayed messages back to Bart Porter, Tom Bell, and Ken Rietz, at the CRP, who in turn sent the messages on to Jeb Magruder. Generally, the complaints were that there was an individual in the field who was causing serious problems for the Committee To Re-Elect the President.<sup>34</sup>

Such a complaint was sent from J. Tim Gratz of Madison, Wisconsin, to Carl Rove, president-elect of the College Republicans. This complaint was eventually assigned to Anthony Ulasewicz who flew out to Wisconsin to investigate this mysterious individual. Ulasewicz did not succeed in tracking down Segretti, but while he was out in Wisconsin, he received a call from Jack Caulfield who informed him that Segretti worked for CRP.<sup>35</sup>

Many of these complaints about Segretti were sent to Magruder, who wrote a memorandum to John Mitchell in January, 1972, entitled "Matter of Potential Embarrassment," in which he described this individual in the field and urged that the individual should be placed under the direction of G. Gordon Liddy.<sup>36</sup> After receiving a copy of that memorandum, H. R. Haldeman told Gordon Strachan to call Segretti to tell him to expect a call from Liddy, who would give him instructions in the future. This memorandum describing the "Matter of Potential Embarrassment" was shredded following the Watergate break-in by Strachan at Haldeman's directions, according to Strachan's testimony.<sup>37</sup>

Segretti was told by Dwight Chapin in either a phone call or at their meeting in Washington on January 20, 1972, that some people in Washington had been disturbed by some of the problems that Segretti had caused in New Hampshire and Wisconsin. Chapin told Segretti to expect a call from an individual who would be checking up on his activities.<sup>38</sup>

### (3) *Relationship with Hunt and Liddy*

In late January 1972, Liddy told Howard Hunt that a Democrat was trying to infiltrate Republican headquarters in some of the primary States in the upcoming campaign. Liddy sent out a communique to all the State Committees To Re-Elect the President headquarters with the individual's description in an effort to find the person who was engaging in these "counterproductive" activities. Four or five days later, Liddy came back to Hunt and said that he had stepped on some toes since the individual really worked for the Committee to Re-Elect the President.<sup>39</sup> Shortly thereafter, Liddy told Hunt that he had been asked to evaluate Segretti's work by the people for whom Segretti was working.<sup>40</sup> Hunt also testified that Liddy told him the Segretti's principals wanted Hunt and Liddy to keep tabs on this individual as well as to provide assistance if it did not hazard their own operations.<sup>41</sup>

A few days after his conversation with Chapin, Segretti received a call in California from an "Ed Warren" (Howard Hunt), who asked to meet with Segretti as soon as possible.

<sup>34</sup> See interview of Porter, Bell, and Rietz.

<sup>35</sup> Ulasewicz interview, May 8, 1973.

<sup>36</sup> 6 *Hearings* 2459.

<sup>37</sup> *Ibid.*

<sup>38</sup> 10 *Hearings* 3983.

<sup>39</sup> Hunt executive session, May 14, 1973, p. 335.

<sup>40</sup> *Ibid.*

<sup>41</sup> *Id.* at p. 336.

On February 11, 1972, Segretti traveled to Miami and on the following day two men came to Segretti's motel room to meet him. They introduced themselves as Ed Warren and George Leonard.<sup>42</sup>

Hunt immediately turned on the television set in Segretti's room to prevent surreptitious taping of the meeting. Segretti explained to Hunt and Liddy that his activities consisted primarily of providing pickets at appearances by opposition candidates and distributing bogus pamphlets and leaflets that could embarrass the Democrats. Hunt and Liddy advised Segretti to use false identification, but they never provided any for him. In addition, Hunt provided Segretti with the name of Jose Arriola to do Segretti's printing in the Miami area.<sup>43</sup>

Segretti explained that he was having some difficulty in obtaining Senator Muskie's schedules, and so Hunt agreed to furnish this information to Segretti. In addition, Hunt gave Segretti his telephone number and told him to keep in touch.<sup>44</sup>

After this initial meeting of 10 to 15 minutes, Segretti maintained sporadic contact with Hunt. Occasionally Hunt would make suggestions to Segretti about possible activities. Some of these suggestions are listed below in the pages describing specific activities carried out by Segretti and his associates.

Segretti's last meeting with Howard Hunt was on June 9, 1972, at the Sheraton Four Ambassadors Hotel in Miami, Fla. At this meeting, Hunt suggested that Segretti put together a group of peaceful demonstrators to picket the Doral Hotel during the Democratic Convention. Hunt explained that another group of unruly demonstrators was to join in the demonstration and attempt to disrupt it, and that the bad conduct of the crowd would be blamed on Senator McGovern. However, the Watergate break-in occurred on June 17, 1972, and any plans for the convention by E. Howard Hunt were temporarily quashed.<sup>45</sup>

#### (4) *Primary activities*

Segretti's most successful operation in the Democratic primaries was in Florida, where he recruited Bob Benz to head up the operation in Tampa, and Doug Kelly to help him in Miami. Segretti paid Benz \$2,417 for his activities, and sent Kelly \$3,436 for his help.<sup>46</sup> Segretti was also fairly successful in recruiting people for the California primary. These individuals included James Robert Norton, who obtained an answering service for Segretti in East St. Louis and a number of other individuals with experience in State politics that Segretti could rely on to distribute literature and to harass appearances by Democratic candidates.

In addition, Segretti recruited Tom Visney and Charles Svihlik to create problems for the Democrats in Illinois, Indiana, and Wisconsin and Skip Zimmer and Bob Nieley for work in the Pennsylvania primary. Finally, Segretti enlisted the help of Michael Martin, Jr., for the New York primary, and Bobby Garner of Houston to provide help in Texas, if that State were to become crucial.<sup>47</sup>

The following account is a summary of the kinds of activities in which Segretti and his associates engaged during the 1972 campaign.

<sup>42</sup> 10 *Hearings* 3983.

<sup>43</sup> Segretti witness summary, p. 7.

<sup>44</sup> *Id.* at p. 8.

<sup>45</sup> 10 *Hearings* 3983.

<sup>46</sup> Segretti witness summary, p. 5.

<sup>47</sup> See Segretti witness summary, payments to Segretti operatives.

(a) *Infiltrators—Florida*: One of the objectives that Chapin outlined to Segretti for his operations was to place infiltrators in Democratic primary campaigns to gather information and to create division among the Democratic candidates. When Robert Benz met Segretti for the first time, he was told "to obtain hecklers, pickets, and also to get people to infiltrate into the campaigns, to gather information," and that Segretti would provide money to pay these people.<sup>48</sup>

Benz immediately recruited Peg Griffin, a secretary in Tampa, active in Republican politics, and asked her to infiltrate the Muskie campaign. Benz testified that he told the Muskie people that "she was a Republican, that she did not care for the President's policies, and that she was now a backer of Senator Muskie."<sup>49</sup> Benz paid Ms. Griffin \$75 a month to infiltrate the campaign. In exchange, Griffin provided Benz with campaign literature, information about the campaign strategy, stationery from Senator Muskie's campaign, names of the campaign staff and precinct captains for Senator Muskie, and some names of financial contributors. Benz testified that he in turn sent all of the information that he received from Ms. Griffin to Segretti's post office box in Los Angeles.

Much of the information that Griffin was able to provide from the Muskie campaign headquarters was subsequently used to further many of the disruptive acts that were perpetrated in the Florida campaign. Griffin was also quite successful in disrupting the campaign on her own. For example, in early January 1972, she learned of a secret \$1,000-a-plate fundraising dinner for Senator Muskie following a public reception, and added this information on as the last two lines of a press release from the Muskie campaign. The dinner was subsequently cancelled by Senator Muskie because of the publicity it received.<sup>50</sup>

Benz testified he also recruited Eselene Frolich to infiltrate the Jackson campaign in Florida.<sup>51</sup> Frolich provided Benz with the same kind of information from Senator Jackson's campaign that Peg Griffin gathered from Muskie's. This information proved to be most valuable in conducting Benz' field activities.<sup>52</sup>

Benz attempted to recruit individuals to infiltrate the Humphrey and Wallace campaigns as well, but was unsuccessful in these efforts. Benz later traveled to Pennsylvania to recruit individuals to infiltrate the primary campaigns there, but he was not as successful as he had been in Florida.<sup>53</sup>

Segretti was also under the impression that Doug Kelly in Miami had two infiltrators into the Muskie campaign.<sup>54</sup> However, Kelly consistently testified that he had no infiltrators or informants in any campaigns in Miami.<sup>55</sup>

*California*: Segretti was also successful in recruiting infiltrators for the California primary. In the Los Angeles area, Segretti talked to Turnquist, Chapin's friend from high school, who in turn contacted Pat O'Brien and recruited him to work in the Muskie campaign in Los Angeles and report back any political intelligence. O'Brien was

<sup>48</sup> 11 *Hearings* 4404.

<sup>49</sup> 11 *Hearings* 4405.

<sup>50</sup> See Benz executive session, Oct. 2, 1973; pp. 17-18; see also 10 *Hearings* 3982.

<sup>51</sup> 11 *Hearings* 4405.

<sup>52</sup> 11 *Hearings* 4407.

<sup>53</sup> 11 *Hearings* 4413.

<sup>54</sup> See 10 *Hearings* 4334.

<sup>55</sup> See, for example, Kelly executive session, Oct. 2, 1973, p. 22.

hired in December 1971, and worked part-time through April 1972, in the Muskie campaign.

In San Francisco, Mike Silva was recruited by Bob Norton to obtain campaign intelligence from the Muskie headquarters and be a contact in San Francisco for Segretti. Silva told Segretti that he had placed two infiltrators in the Muskie campaign in late February 1972. Silva stated in an interview, however, that he did not actually place infiltrators in the campaign, but merely gathered campaign literature from a political science course at San Francisco State University and forwarded the material on to Segretti at his post office box in Los Angeles.<sup>56</sup>

*New York:* In New York, Segretti hired Michael Martin, Jr., to infiltrate the Humphrey campaign and report any intelligence information that he gathered. Martin apparently was such a successful infiltrator that he was offered a position as director of the northern New York campaign for Humphrey, but Segretti said that Martin turned down the position so he could stay in New York City and continue reporting to Segretti.<sup>57</sup>

*Texas:* In Texas, Segretti paid Bobby Garner, of Houston, \$265, some of which was to go to an infiltrator in the Muskie campaign in Texas. This infiltrator was to work during the months of February, March, and April, gathering intelligence and mailing it back to Segretti's post office box in Los Angeles.

The success of the Segretti operation in infiltrating primary campaigns also contributed to the success of their other efforts to disrupt and harass Democratic candidates.

(b) *Surveillance.*—In his meeting with Dwight Chapin in early November 1971, Segretti learned that Senator Muskie would be visiting the Los Angeles area about November 6. Segretti testified that Chapin instructed him to hire some pickets for Muskie's appearances there and to learn the logistics of Senator Muskie's traveling party.

Segretti said he called Jess Burdick, an ex-CID agent who worked as a private detective in the Los Angeles area, and hired him to tail Senator Muskie during his trip to Los Angeles. Burdick followed Muskie for the weekend, and reported back to Segretti information such as the license numbers of the vehicles used by the Muskie campaign. When Burdick charged Segretti \$325 for his services, Segretti thought the price was steep for the information that was provided, and therefore did not use Burdick after the one occasion in November.<sup>58</sup>

Physical surveillance of Senator Muskie also occurred in the Florida primary when Robert Benz had his agents tail Senators Muskie and Jackson when they were in the Tampa area.<sup>59</sup>

(c) *Disruptions.* (i) *Distribution of False and Misleading Literature.*—One of the most successful tactics for disrupting the Democratic primary campaigns used by Segretti and his operatives was the distribution of false and misleading literature. Instances of this particular campaign abuse occurred in nearly every primary State. Nowhere in any of this literature was it noted that the literature was financed by funds from the Committee To Re-Elect the President.

<sup>56</sup> See Silva interview, Aug. 30, 1973. Segretti was clearly under the impression that Silva had two informants in the Muskie campaign. See 10 *Hearings* 4332.

<sup>57</sup> Segretti witness summary, p. 12.

<sup>58</sup> 10 *Hearings* 3981.

<sup>59</sup> See Benz witness summary.

*Pre-primary.*—After Segretti was informed by Dwight Chapin that Senator Muskie was appearing at Whittier College in November 1971 he had a number of handouts with “hard questions” printed up which he handed out to students at the Whittier rally.<sup>60</sup> Someone in the crowd asked Muskie about his views on abortion, one of the questions on Segretti’s handout. In the White House news summary of the event that Chapin sent Segretti. Chapin noted that Segretti’s question had been asked.<sup>61</sup>

*Florida:* False and misleading literature was most widely distributed in the Florida primary. The following list is a catalog of the various abuses in this area perpetrated in Florida by Segretti and his operatives.

1. About 300 red day-glow posters were distributed throughout the State which said, “Help Muskie in Bussing [sic] More Children now.” The poster was signed by the “Mothers Backing Muskie Committee,” a nonexistent committee, and the intent of the poster was to identify Senator Muskie with a strong probusing position, a very unpopular issue in Florida. Most of these posters were distributed by Benz, Segretti, and Kelly in the Tampa and Miami areas of Florida.<sup>62</sup>

2. About a thousand 4- by 6-inch cards were printed-up and distributed at a Tampa rally for Governor George Wallace by Robert Benz and his agents. The cards read, “If You Liked Hitler, You’ll Just Love Wallace.” On the other side of the card, it stated “A Vote For Wallace Is A Wasted Vote. On March 14, cast your vote for Senator Edmund Muskie.”<sup>63</sup>

There was no indication on the cards that they were financed by Nixon campaign funds. The clear intent of the literature was to drive a wedge between the Wallace and Muskie campaigns.

3. On February 25, 1972, a letter was sent on copied Muskie campaign stationery to the campaign manager of the Florida Jackson campaign and to syndicated columnists which stated that Senator Muskie’s campaign was using Government typewriters as well as Government employees drawing Government salaries.<sup>64</sup> This letter was sent to Jackson campaign headquarters in Tampa and in Washington, D.C., and copies of the letter were also sent to local media. The facts on which the letter was based were totally fabricated by Segretti, and Doug Kelly and Bob Benz arranged for the distribution of the letter on copied stationery Pat Griffin provided from the Muskie campaign.<sup>65</sup>

4. Similarly, in March 1972, Segretti sent Benz a counterfeit letter on Muskie stationery containing allegations of sexual improprieties involving Democratic Presidential candidates Jackson and Humphrey. Segretti instructed Benz to have 20 to 40 copies of the letter printed on Senator Muskie’s stationery (which Segretti enclosed) and distributed.<sup>66</sup> Benz gave the material to George Hearing, a local recruit of Benz’, who duplicated the letter on Muskie stationery and mailed the letter to supporters of Senator Jackson. Hearing’s list of Jackson supporters was given to him by Benz who had obtained

<sup>60</sup> 10 Hearings 4270.

<sup>61</sup> 10 Hearings 4272.

<sup>62</sup> 10 Hearings 4267, 3982.

<sup>63</sup> 11 Hearings 4410; see also 11 Hearings 4292.

<sup>64</sup> 10 Hearings 4279.

<sup>65</sup> 10 Hearings 3982; 11 Hearings 4381; 11 Hearings 4411.

<sup>66</sup> 11 Hearings 4411; 10 Hearings 3997.

the information from Eselene Frohlich, the infiltrator in Senator Jackson's campaign.<sup>67</sup>

This phony, scurrilous letter on Muskie stationery against Senators Jackson and Humphrey won praise for Segretti from Chapin. On learning that the cost of the reproduction of the letter was only \$20, Segretti testified that Chapin told him that for that small sum, he had obtained \$10,000 to \$20,000 worth of benefit for the President's re-election campaign.<sup>68</sup>

In May 1973, indictments concerning this incident were brought by the U.S. attorney's office in Tampa. At that time, Robert Benz was given immunity and was not prosecuted, while George Hearing was prosecuted and convicted on one count of violating 18 U.S.C. 612, the law prohibiting distribution of unsigned political literature. Similarly, Donald Segretti was indicted for a number of violations of 18 U.S.C. 612.

Mr. Hearing, the individual who mailed the letter, was sentenced to 1 year in prison. Mr. Segretti, the originator of the scheme, was sentenced to 6 months in prison after pleading guilty to three counts<sup>69</sup> in Federal District Court in Washington, D.C. Robert Benz, the individual who recruited Hearing and Frohlich, and who directed Hearing to mail the letter, was neither indicted nor convicted of any crimes.

5. A number of pamphlets advertising a free lunch at Muskie's campaign headquarters were distributed in Miami by Doug Kelly.<sup>70</sup> The pamphlets also advertised free liquor and a chance to meet Senator Muskie and his wife. These pamphlets were distributed all over Miami, and a small pile of them was left at the Lindsay headquarters. The morning before the lunch was to occur, Kelly called Muskie headquarters and said that the Lindsay campaign was responsible for the false invitations.<sup>71</sup> The dual objectives of the literature were thus to disrupt the Muskie campaign and to drive a wedge between Lindsay and Muskie.<sup>72</sup>

6. Another invitation to a Muskie campaign meeting in Miami was obtained from the Muskie campaign by Segretti and Kelly. A line was added to the invitation which stated "Free Food and Alcoholic Beverages Provided," and these were distributed in the Miami area.<sup>73</sup>

7. Some press releases were written on Muskie stationery in Miami by Doug Kelly, Segretti's main contact in the area. Kelly recalled sending out three or four bogus press releases, most of which sought to misrepresent the position of Senator Muskie on issues such as Israel and busing, and to draw attention to the position of Senator Humphrey.<sup>74</sup> These releases were yet another tactic for carrying out the strategy of "Dividing the Democrats."

8. Kelly testified that he also distributed flyers announcing a speech by former Secretary of the Interior Udall that had been canceled by the Young Democrats.<sup>75</sup> The flyers resulted in some disruption, Kelly

<sup>67</sup> 10 *Hearings* 4280.

<sup>68</sup> 10 *Hearings* 3997.

<sup>69</sup> The three counts consisted of two violations of 18 U.S.C. 612 and one count of conspiracy, 18 U.S.C. 371.

<sup>70</sup> 11 *Hearings* 4380.

<sup>71</sup> 11 *Hearings* 4380. In addition, a number of people showed up at Muskie headquarters in response to the bogus invitations (Tim Smith interview).

<sup>72</sup> 11 *Hearings* 4380.

<sup>73</sup> See Segretti interview, p. 10.

<sup>74</sup> 11 *Hearings* 4381.

<sup>75</sup> Kelly executive session, Oct. 2, 1973.



testified, since the speech had to be rescheduled after the flyers appeared.

9. Flyers were passed out in Miami by Doug Kelly that appeared to be from Mayor Lindsay which attacked Senator Muskie's stand on Israel. These flyers noted that Senator Muskie felt that Israel should be treated the same way as Cuba, thus antagonizing both Jewish and Cuban-American voters. Many of these flyers were distributed in Miami Beach, by being placed under windshield wipers of cars that were parked at synagogues.<sup>76</sup>

10. Other examples of false literature passed out in the Florida primary by Segretti and his contacts are found in the exhibits introduced during the Segretti testimony.<sup>77</sup>

*Wisconsin:* Similar kinds of false and misleading literature were distributed in the Wisconsin primary by Segretti and his agents.

Segretti and Benz drove to Milwaukee, Wis., at the end of March 1972, to pull pranks before the April 4 primary. There they distributed a false invitation for a free lunch with Senator Humphrey on April Fool's Day at which free drinks were to be given away, and guests would have the opportunity to meet Senator Humphrey, Lorne Green and Mrs. Martin Luther King.<sup>78</sup> The invitation was intended to disrupt the Humphrey campaign much as Segretti had done to Muskie in Florida. Benz also stated that he and Segretti called the local newspapers to inform them that the invitations had been printed by Muskie supporters.<sup>79</sup>

Numerous bumper stickers with derogatory sexual slogans about Senator Muskie were put up and distributed by Segretti and Benz in Wisconsin.<sup>80</sup> They were intended to embarrass Senator Muskie and to help drive down his vote total in Wisconsin. The bumper stickers were again unidentified as to their source.

*Illinois:* Much of the same material that was distributed in Wisconsin was also distributed in Illinois by Tom Visney, Segretti's main recruit there. In addition, Segretti sent Visney copies of the pamphlet from the "Citizens for a Liberal Alternative," the nonexistent citizen's committee discussed earlier.<sup>81</sup> This pamphlet, written in the White House and printed by CRP, was intended to divide the Democrats among themselves.

*District of Columbia:* On about April 13, 1972, Segretti testified he flew to Washington at the suggestion of E. Howard Hunt to organize disruptive activities at a Muskie fundraiser scheduled for April 17, 1972. Doug Kelly, who also flew up for the occasion, and Segretti distributed literature which described the fundraising dinner and requested pickets outside the dinner to "protest the fat cats."<sup>82</sup>

*California:* By the time of the California primary, the main Democratic contenders were Senator McGovern and Senator Humphrey. Most of the false and misleading literature distributed by Segretti and his contacts in California attacked one of the Democratic candidates and attributed the attack to another candidate, thus attempting to

<sup>76</sup> 11 *Hearings* 4392.

<sup>77</sup> See 10 *Hearings* 4276-77.

<sup>78</sup> 10 *Hearings* 4285.

<sup>79</sup> See Benz interview, Oct. 2, 1973, p. 3.

<sup>80</sup> Copies of these bumper stickers are in the committee's files. They referred solely to Senator Muskie.

<sup>81</sup> See p. 157 *supra*; see also Segretti witness summary (interview), p. 7.

<sup>82</sup> 10 *Hearings* 3954.

further divide the Democrats and make it more difficult for them to regroup following the convention.

Months before the primary, Segretti reprinted a newspaper advertisement by Stewart Mott and the "Committee for Honesty in Politics" which abhorred the "Secret Money in Presidential Politics." At the bottom of the reprint Segretti added the note, "The committee will look for your names as part of Muskie's fat cats! They better be there!"<sup>83</sup>

This doctored reprint was distributed to individuals entering a fundraiser for Senator Muskie in Los Angeles by Segretti's agents in the area.<sup>84</sup>

As the primary approached, the literature written and distributed by Segretti and his contacts became much more vicious. Some examples follow:

1. Segretti sent out a statement on Humphrey press release stationery for immediate release which said that Representative Shirley Chisholm had been committed to a private home for the mentally ill from February 1951, until April 1952. The "release" went on to describe in the most vicious and scurrilous terms the "alleged behavior" that Representative Chisholm demonstrated at that time. At the bottom of the fake press release were the initials HHH. This release was mailed out to 10 or 15 California newspapers.<sup>85</sup> Segretti testified that he sent the release to Dwight Chapin, who "laughed for a period of time" about the bogus release.<sup>86</sup>

2. Two other false press releases on Hubert Humphrey stationery were mailed out to the newspapers by Segretti. One release stated that former President Lyndon Johnson favored Humphrey as the Democratic nominee, and the other one misrepresented Humphrey's position on one of the initiatives on the California ballot in 1972.<sup>87</sup> Most of the bogus candidates' stationery that was used by Segretti to pull his so-called pranks was printed for him by Jose Arriola in Miami, the printer whose name Segretti received from Howard Hunt.<sup>88</sup>

3. Segretti also had bumper stickers printed and distributed throughout California which said: "Humphrey: He started the war, don't give him another chance." More than 1,000 of these bumper stickers were printed, most of which were distributed in California. The bumper stickers were signed by the "Democrats for a Peace Candidate," another nonexistent group which was created by Segretti.<sup>89</sup>

4. In addition, using as a model the pamphlet from the "Citizens for a Liberal Alternative" that had been drafted by Ken Khachigian and Pat Buchanan in the White House, Segretti had 3,000 pamphlets printed up with a picture of Senator Humphrey holding a large fish and the caption, "Humphrey: A fishy smell for the White House?"<sup>90</sup> The objective of the pamphlet was to have the Humphrey people blame McGovern for this scurrilous and fictitious piece of literature. These pamphlets were distributed in San Francisco, Los Angeles, and in Orange County.

<sup>83</sup> 10 *Hearings* 4284.

<sup>84</sup> 10 *Hearings* 4005.

<sup>85</sup> 10 *Hearings* 4004; see also p. 327 of transcript of *United States v. Chapin*.

<sup>86</sup> 10 *Hearings* 4004.

<sup>87</sup> 10 *Hearings* 4004.

<sup>88</sup> 10 *Hearings* 4000.

<sup>89</sup> 10 *Hearings* 4295.

<sup>90</sup> 10 *Hearings* 4299.

5. Segretti was also responsible for preparing and mailing a letter over the forged signature of Barbara Barron, the campaign coordinator of Senator McCarthy's California campaign, to McCarthy delegates and Chisholm supporters urging them to shift their support to Senator Humphrey.<sup>91</sup> The letter was printed on "McCarthy 1972" stationery, and many of the people who received the mailing have always believed that Barbara Barron was responsible for the letter. In fact, Barbara Barron had absolutely nothing to do with the mailing since it was solely a product of Segretti's fertile imagination.

6. Segretti also sent letters on "Yorty for President" stationery to local newspapers such as the Los Angeles Free Press. These letters claimed that the forged letters from Barbara Barron to the McCarthy delegates and Chisholm supporters were the responsibility of the Yorty campaign.<sup>92</sup>

The Los Angeles Free Press ran the story that the forged letters had, in fact, come from the Yorty for President Committee. Thus, the forged letters, and the subsequent fake letter claiming responsibility for the initial forgeries were quite successful in sowing dissension among the California Democrats.

According to Frank Mankiewicz, these examples of false literature distributed in the campaign had a serious impact on the Democratic candidates themselves. He testified:

We [the McGovern campaign and the Humphrey campaign] were no longer opponents; we had become enemies, and I think largely as a result of this activity.<sup>93</sup>

In addition, Senator Muskie and his staff blamed the false and scurrilous literature on both Senator McGovern and his supporters as well as Senator Humphrey's campaign.<sup>94</sup> The false literature exacerbated the normal differences among the candidates and helped to create a deeply divided Democratic Party at the close of the Presidential primaries.

(ii) *False Advertising*.—Another deceptive practice engaged in by Segretti and his agents was the placement of false and misleading advertising for or against Democratic candidates on the radio and in local newspapers.

*Florida:* In Miami, Doug Kelly placed an ad on a local radio station which said that Senator Muskie believed in the right of self-determination for all people, and therefore, supported the Castro government in Cuba. The ad was ostensibly purchased by the Muskie campaign organization, and was designed by Kelly to alienate the Cuban voters from Senator Muskie.<sup>95</sup>

A similar ad was placed in the local Cuban-American newspaper *Replica*, which stated that Muskie believed that the United States should not interfere with the Castro government of Cuba.<sup>96</sup> Again, the ad purported to be from Senator Muskie's campaign, and was designed to alienate Cuban-American supporters.

A number of classified ads were placed in various Miami newspapers which drew attention to Muskie's statement that he did not think the American people were ready for a black Vice Presidential candidate.<sup>97</sup>

<sup>91</sup> 10 *Hearings* 4296.

<sup>92</sup> 10 *Hearings* 4301.

<sup>93</sup> 11 *Hearings* 4614.

<sup>94</sup> 11 *Hearings* 4659, 4663-64.

<sup>95</sup> 11 *Hearings* 4379.

<sup>96</sup> *Ibid*.

<sup>97</sup> 10 *Hearings* 4271.

While these small ads could hardly influence very many voters, the ads could create some division and bad feelings among the Democrats after the primary was over if Senator Muskie's campaign thought the ads were placed by other Democratic contenders.

*Illinois:* In Chicago, Tom Visney placed an anti-Muskie ad in the newspaper as well as on some of the radio stations.<sup>98</sup> These ads supported Senator McCarthy's candidacy, and stated that Senator Muskie had neither the emotional stability nor the experience to hold the office of the Presidency. In none of these ads was it stated that they had been paid for and created by agents of the White House.

*Democratic Convention:* In May or June, Segretti and Doug Kelly ordered an airplane to fly over the Democratic Convention with a trailer which stated, "Peace, Pot, Promiscuity. Vote McGovern." Kelly was not sure if in fact the plane flew over the convention.<sup>99</sup> Someone later told him that they had seen a plane with a wierd message flying over the Democratic convention.<sup>1</sup>

(iii) *Pickets.*—One of the main tenets of advice given to Segretti by Dwight Chapin was to have pickets appear at campaign appearances by other Democratic candidates in order to take advantage of the media coverage of the event.<sup>2</sup> Therefore, much of Segretti's activity involved organizing pickets at the appearances of the Democratic primary contenders.

Even prior to the primaries, in early November 1971, Segretti paid a friend of his from Turlock, Calif., to arrange for a group of pickets with signs saying, "Kennedy for President" to appear in front of a San Francisco hotel where both Senators Muskie and Humphrey were appearing at a Democratic dinner.<sup>3</sup>

Segretti also attempted to arrange for pickets to appear at an appearance by Senator Muskie at Whittier College that same month.<sup>4</sup> Unknown to Segretti, Roger Greaves (Sedan Chair I) had also been directed by Bart Porter and Jeb Magruder to have pickets present with anti-Muskie signs. The appearance must have been an important one, since Segretti was given the same directions by Dwight Chapin at the White House.

*Florida:* Segretti's most successful picketing operation was run by Robert Benz in the Tampa area during the Florida primary campaign. Benz recruited Kip Edwards, Al Reese, George Hearing, and an individual identified only as "Duke" to organize pickets against Senators Muskie and Jackson in the Tampa area. The logistics of the picketing was greatly aided by the information being provided to Benz by Frohlich from the Jackson campaign and Griffin from the Muskie campaign.

Many of these picketing activities were successful in getting media coverage and in provoking dissension among the Democratic candidates. These activities included:

1. Benz learned that Senator Jackson was to appear for the opening of his Tampa headquarters in January 1972. As a result, he hired a Mr. Yancy and Kip Edwards to stand across the street from the

<sup>98</sup> Segretti witness summary, p. 11.

<sup>99</sup> 11 *Hearings* 4384.

<sup>1</sup> *Ibid.*

<sup>2</sup> See p. 161, *supra*.

<sup>3</sup> 10 *Hearings* 3981.

<sup>4</sup> *Ibid.*

headquarters with signs saying, "Believe in Muskie."<sup>5</sup> Segretti was present to observe this particular demonstration, as were some news photographers who took a picture of Senator Jackson walking across the street to offer the two picketers a glass of orange juice. This photograph was reprinted widely in Florida newspapers.<sup>6</sup>

2. Benz also received the schedule of the Muskie campaign train as it traveled down through Florida. He arranged for pickets to appear at the Winter Haven stop with signs saying "Wallace Country." George Hearing, Kip Edwards, and the individual known as "Duke" showed up to picket this appearance. Benz believed that "Duke" was a member of the Nazi Party and was told that he was a former SS officer in Hitler's storm troopers.<sup>7</sup>

In addition, Benz and Hearing discussed the possibility of disrupting Senator Muskie's train schedule by furnishing false information to his headquarters as well as to the public.<sup>8</sup>

3. Benz also arranged for pickets to appear at another Muskie appearance at the University of Southern Florida. There they distributed derogatory newspaper reprints concerning Muskie.<sup>9</sup>

4. Benz organized a number of other pickets at Muskie appearances in Tampa. On one occasion, he arranged for the picketing of a Muskie rally by blacks carrying "racially related placards" which criticized Muskie's statements about not having a black Vice Presidential candidate.<sup>10</sup>

5. On one occasion, Doug Kelly gave a female college student from the University of Florida \$20 in cash to run naked in front of Muskie's hotel in Gainesville, screaming, "Senator Muskie, I love you."<sup>11</sup> Kelly testified that the incident was reported in the Gainesville papers.

6. Senator Muskie had a press conference in Miami at the Four Ambassadors Hotel shortly before the Florida primary. Kelly recruited some Cubans to picket the press conference with signs saying, "Muskie go home," and "We want a free Cuba."<sup>12</sup>

In addition, Kelly gave the picketers Humphrey buttons to wear. One of Senator Muskie's aides asked Kelly about the identity of the picketers. Kelly explained to him "confidentially" that the picketers were really working for Senator Jackson.<sup>13</sup>

This example is a good case of how political "pranks" can be used both to identify a candidate with a controversial issue and to foster dissension among the Democratic candidates themselves.

*California:* In California, Segretti contacted many people to picket fundraising dinners by Democratic candidates as well as distribute false literature. For example, Segretti hired an individual named Jim Popovich, who told Segretti that he would put together a "flying squad" of about ten individuals who would be available to picket any local appearances by Senator Muskie. Segretti thought the idea a good one and paid Popovich about \$130 before discovering that Popovich was not producing as many pickets for these appearances as he had claimed.<sup>14</sup>

<sup>5</sup> 11 Hearings 4409.

<sup>6</sup> *Ibid.*

<sup>7</sup> 11 Hearings 4426.

<sup>8</sup> 11 Hearings 4409. Some false ads about the train's schedule were published, but there is no evidence at present linking those to Benz or Segretti.

<sup>9</sup> 11 Hearings 4410.

<sup>10</sup> 11 Hearings 4408.

<sup>11</sup> 11 Hearings 4399.

<sup>12</sup> 11 Hearings 4382.

<sup>13</sup> 11 Hearings 4383.

<sup>14</sup> See Segretti witness summary; breakdown of payments to operatives.

*Pennsylvania:* In Pennsylvania, Segretti recruited Skip Zimmer and Bob Nieley to pass out literature at Muskie campaign appearances and to organize pickets for Muskie rallies.<sup>15</sup> Zimmer sent Segretti clippings from local newspapers after Muskie's appearances where Muskie was heckled and picketed to verify that the activity occurred.<sup>16</sup>

Exhibits in the Committee record indicate that Zimmer recruited people to stand at Muskie rallies with signs saying such things as "M-U-S-K-I-E spells Loser" and "HHH is the Man." Posters also drew attention to Muskie's probusing stand and pointed out that he allegedly sent his children to private schools.<sup>17</sup> As Zimmer described these efforts in a note to Segretti, "Though press was disappointing . . . we did grandly piss off his staff and rattle him considerably."<sup>18</sup>

Segretti also stated that Zimmer allegedly arranged for pickets to appear at Muskie rallies and pose with signs saying, "Gays for Muskie."<sup>19</sup>

Hecklers were also organized by Zimmer and Nieley during the Pennsylvania primary according to Segretti.<sup>20</sup> Some hecklers appeared at one Humphrey speech in Philadelphia. Following the heckling Segretti said that Zimmer called Humphrey headquarters to tell them that Muskie had hired the hecklers for \$100 apiece.<sup>21</sup>

As noted earlier, Segretti also had Robert Benz fly to Pittsburgh to recruit agents to picket Muskie's campaign appearances. Benz was not as successful there as he had been in Tampa.<sup>22</sup>

*Planned Convention Activity:* As discussed earlier,<sup>23</sup> Segretti's recruiting of pickets for campaign appearances of Democratic candidates was supposed to reach its high point at the Democratic convention in Miami during July, 1972. Howard Hunt directed Segretti to set up a demonstration which would subsequently become violent and would be blamed on the McGovern campaign. The Watergate break-in, however, put an end to these plans.

(iv) *Other Disruptions.—False Orders for Food, Flowers, and Beverages.*—On primary day in Florida, Segretti and Kelly placed orders on behalf of the Muskie campaign for flowers, chicken, pizzas, and about \$300–\$400 of liquor.<sup>24</sup>

Three weeks later, on the day of the Wisconsin primary, Segretti and Benz again ordered flowers, chicken and pizzas to be sent to Senator Muskie's hotel room, and also ordered two limousines to be sent to Senator Muskie's hotel for the use of the Senator. These false orders disrupted Senator Muskie's schedule considerably.<sup>25</sup>

Finally, two weeks later at a Muskie fundraising dinner in Washington, D.C., Segretti and Kelly again made numerous false orders to disrupt the dinner. Kelly and Segretti ordered flowers, liquor, pizzas and other items for the banquet, charging them to the Muskie campaign committee. In addition, Kelly and Segretti invited six African ambassadors and their guests to attend the Muskie fund-

<sup>15</sup> 10 Hearings 3998.

<sup>16</sup> 10 Hearings 4289.

<sup>17</sup> 10 Hearings 4291.

<sup>18</sup> 10 Hearings 4292.

<sup>19</sup> See Segretti witness summary, p. 12.

<sup>20</sup> Nieley denies having done this. Nieley testified that he merely collected literature and sent it on to Segretti (Nieley interview).

<sup>21</sup> Segretti witness summary, p. 12.

<sup>22</sup> Benz witness summary, p. 3.

<sup>23</sup> See p. 166, *supra*.

<sup>24</sup> 11 Hearings 4382.

<sup>25</sup> Benz witness summary, p. 3.

raising dinner and made arrangements for them to be picked up by limousines which were to be charged to Senator Muskie's campaign.

These activities disrupted this last major fundraising effort by Senator Muskie by diverting staff attention and resources, especially when Segretti and Kelly kept calling the limousine drivers to return to the Muskie dinner in order to be paid by the campaign. The net effect of their activities was to create a very embarrassing situation for the Muskie organization.

*Stink bombs:* On at least four separate occasions in the Florida primary, stink bombs were used to disrupt or harass the Muskie campaign.

The stink bomb was first concocted by a chemist friend of Doug Kelly. The name of the chemical substance which he produced was butyl percaptain, a foul-smelling substance which was not physically harmful but was very noxious.<sup>26</sup>

Shortly before the Florida primary, Senator Muskie had a campaign picnic scheduled in the Miami area. Kelly and Segretti took the chemical substance, put it in a coke bottle, and sealed it with wax. The bottle was taken to the picnic by Kelly and Segretti and dropped on the ground, releasing the chemical substance to foul the air. After the stink bomb had been dropped, Kelly said that "everybody thought that the food was bad. So it kind of made the picnic a bad affair."<sup>27</sup>

Following the Muskie picnic, Segretti traveled north to Tampa with three vials of butyl percaptain. Segretti gave these vials to Bob Benz, with the instructions that they should be placed in Senator Muskie's headquarters.

One of the vials was taken to a Muskie campaign picnic in the Tampa area and emptied at the grounds there.<sup>28</sup> The other two vials were given to George Hearing by Benz with instructions to place them in the two Tampa headquarters of Senator Muskie on the evening before the primary. According to Benz, Hearing placed one of the stink bombs in the offices housing the telephone bank operation of Senator Muskie, and the other in the Tampa Muskie headquarters. Benz said that Hearing told him that at one location the material was dropped through a "hole in the window," and at the other location the window was open and the stink bomb was tossed in.<sup>29</sup> Segretti testified that he was told by Benz that a screen was pried open and a window lifted in order to place the stink bomb in the Muskie campaign headquarters.<sup>30</sup>

The placing of these stink bombs in the Muskie campaign headquarters on the evening prior to the Florida primary disrupted, confused, and unnecessarily interfered with a campaign for the office of the Presidency.

*Other disruptions:* A few days before the Florida primary, Senator Muskie held a press conference at the Four Ambassadors Hotel. Doug Kelly walked into the Muskie press conference with a long overcoat on, and dropped two white mice with blue ribbons on their tails which said, "Muskie is a Rat Fink." Kelly also released a small finch which went flying around the room of the press conference and caused a great deal of commotion and disruption to Senator Muskie's press conference.<sup>31</sup>

<sup>26</sup> 11 *Hearings* 4382.

<sup>27</sup> *Ibid.*

<sup>28</sup> 11 *Hearings* 4412.

<sup>29</sup> *Ibid.*

<sup>30</sup> 10 *Hearings* 3398.

<sup>31</sup> 11 *Hearings* 4382.

Kelly also had advance notice of Muskie's schedule in Florida. As a result, Kelly would often call the individuals who were on Senator Muskie's schedule and change the hour of the appointment to some other time, or even cancel the appointment. Needless to say, this tactic greatly disconcerted both Senator Muskie and the press.<sup>32</sup>

Both Kelly and Benz made a practice of placing other Democratic candidates' stickers on the posters and literature of other Democrats. This practice was designed to foster divisions and bad feelings among the Democratic candidates.

Kelly also attempted to tie up the phone banks of the Muskie campaign on the day of the Florida primary by dialing the telephone numbers of the Muskie phone bank operation from pay telephones. Kelly would then leave the telephone off the hook as soon as the call was answered at the Muskie campaign. He then left the phone booth and placed an "out of order" sign on the outside to insure that the line would be tied up all day.<sup>33</sup> The method, however, didn't work because of the automatic cutoff from the phone company.

### *c. Segretti Coverup*

Segretti was first contacted by the FBI shortly after the Watergate break-in, when his name and phone number showed up on Howard Hunt's telephone records. Segretti immediately called Dwight Chapin at the White House to request his assistance in getting legal counsel. Chapin, after consulting with Gordon Strachan at the White House, told Segretti to return to Washington, D.C., immediately.<sup>34</sup> Meanwhile Strachan called John Dean and explained that the FBI had called a friend of his named Donald Segretti, and wanted to interview him in connection with the break-in at the DNC.<sup>35</sup>

Strachan requested that Dean meet with Segretti. A meeting was arranged for the morning of Saturday, June 24, 1972, among Segretti, Strachan, and Dean<sup>36</sup> in the lobby of the Mayflower Hotel. Following a short discussion of Segretti's general activities, Dean told Segretti to come to Dean's office in the White House the following day for more detailed discussion.<sup>37</sup>

Segretti went to the Executive Office Building the next day, and outlined in detail to Dean his relationship with E. Howard Hunt.<sup>38</sup> Dean told Segretti not to worry about the upcoming interview since the FBI had picked his name up on Hunt's phone records. In addition, Dean instructed Segretti not to divulge the names of Chapin, Strachan, or Kalmbach to the FBI unless the FBI felt it was absolutely necessary to have the names.<sup>39</sup>

Segretti left Washington and returned to California where he was interviewed by the FBI agents. The interview focused on Segretti's contacts with E. Howard Hunt, and he was not forced to divulge any of the names about which he had been concerned.<sup>40</sup> Segretti telephoned John Dean after the interview to tell him that he had not been forced to reveal any of the sensitive names.

<sup>32</sup> 11 *Hearings* 4383.

<sup>33</sup> 11 *Hearings* 4382.

<sup>34</sup> Segretti witness summary, p. 14.

<sup>35</sup> 3 *Hearings* 962.

<sup>36</sup> Segretti witness summary, p. 14; 3 *Hearings* 962.

<sup>37</sup> Segretti witness summary, p. 14; 3 *Hearings* 963.

<sup>38</sup> 3 *Hearings* 963.

<sup>39</sup> 3 *Hearings* 963; Segretti witness summary, p. 14.

<sup>40</sup> Segretti witness summary, p. 14.



In August 1972, Segretti was notified that he was being subpoenaed to appear before the grand jury investigating the Watergate break-in in Washington. Because of his concern about testifying before the grand jury, Segretti tried to contact his friends at the White House as well as local legal counsel.

Segretti finally reached Dwight Chapin at the Republican Convention. Chapin called Dean, who was also at the convention, to explain that Segretti was quite concerned about being called before the Federal grand jury.<sup>41</sup> Dean said that he would be happy to meet with Segretti in Florida, since it was impossible for him to go to Washington at that time.

After Dean talked to Chapin, he called Assistant Attorney General Henry Petersen at the Department of Justice and explained the sensitive problem that was confronting Segretti. Dean said he told Petersen that Segretti had no involvement in the Watergate incident, but that he met with Hunt in connection with some campaign activities that he had been performing for the White House. Dean testified he also explained to Petersen that Segretti was being paid by Kalmbach, and that he had been recruited by Chapin and Strachan. Dean said he stressed that if these facts were revealed they would be quite embarrassing and would cause political problems during the last weeks of the election. According to Dean, Peterson replied that he understood the problem and would see what he could do.<sup>42</sup> Dean later spoke to Petersen again, and Dean testified that Petersen explained that he did not believe it would be necessary for the prosecutors to get into the specific areas of concern to Dean when Segretti appeared.

Petersen recalls that the question of going into the "dirty tricks" of Segretti was also raised by Earl Silbert, who said that there did not appear to be a violation of the Corrupt Practices Act. The question was raised again by Charley Bowles, head of the accounting and fraud section of the FBI, who asked Petersen if there was any violation of Federal election law by Segretti. Petersen replied that he knew of none.<sup>43</sup>

Petersen directed Silbert not to probe the relationships between Segretti and Kalmbach, Chapin, and Strachan because he "didn't want him getting into the relationships between the President and his lawyer or the fact that the President's lawyer might be involved in somewhat, I thought, illegitimate campaign activities on behalf of the President."<sup>44</sup>

Segretti flew to Florida a few days prior to his appearance before the grand jury. He met with John Dean briefly on the Saturday morning preceding the opening of the Republican National Convention.<sup>45</sup> Dean explained to Segretti that he did not believe the Government was particularly interested in pursuing the names of Strachan, Chapin, and Kalmbach in connection with Segretti's activities, and that he doubted that Segretti would be asked any questions in these areas. Dean advised Segretti, however, that if he were asked any questions about his "dirty tricks" activities, he should answer every question truthfully, and if pressed, Dean advised Segretti to lay out the "whole ball of wax."<sup>46</sup> Segretti recalled that Dean was most concerned about

<sup>41</sup> 3 *Hearings* 963.

<sup>42</sup> 3 *Hearings* 964.

<sup>43</sup> 9 *Hearings* 3620.

<sup>44</sup> 9 *Hearings* 3621.

<sup>45</sup> 3 *Hearings* 964.

<sup>46</sup> 3 *Hearings* 964; Segretti witness summary, p. 15.

Kalmbach's name being brought up, but that Dean mentioned that he might be able to put certain parameters on the grand jury examination through Henry Petersen.<sup>47</sup>

Segretti then traveled to Washington for his grand jury appearance. Prior to testifying, Segretti was interviewed by Earl Silbert and Don Campell in the U.S. attorney's office. During the interview, he recalled that he was asked if he were getting paid by a "Mr. K."<sup>48</sup> However, once Segretti went before the grand jury, Segretti testified that Silbert did not get into that area of questioning. Segretti testified that a woman juror finally asked him who was paying him, and that he then testified that he was paid by Kalmbach and was hired by Chapin and Strachan.

Earl Silbert has filed an affidavit with the committee denying that the original Watergate prosecutors limited their questioning of Segretti in order to conceal the involvement of Chapin, Strachan, and Kalmbach. Silbert said that since Segretti's last payment was in March 1972, prior to the effective date of the Federal Election Campaign Act of 1971, "it foreclosed the possibility of a violation of this act."<sup>49</sup> Silbert also denied that he or Donald Campbell ever referred to Herbert Kalmbach as "Mr. K."<sup>50</sup> In his affidavit, Silbert explained more fully his questioning of Segretti:

Because none of his non-Watergate activity appeared to involve criminal violations and because the grand jury was investigating only Watergate, we did not examine Mr. Segretti at length about his political spying activities before the grand jury. However, we immediately requested the FBI to interview Messrs. Chapin and Strachan of the White House staff, who Mr. Segretti had informed us had recruited him, and Mr. Kalmbach in California. The reports of these interviews were sent to the Special Election Law Unit in the Department of Justice. The possible inference drawn by some that we did not explore Mr. Segretti's spying activities before the grand jury because we wanted to conceal any involvement of Messrs. Kalmbach, Chapin, and Strachan is nonsense. \* \* \* We did not because it did not relate to the break-in and the bugging.<sup>51</sup>

Following his grand jury testimony Segretti called John Dean to explain that the names of Chapin, Strachan, and Kalmbach had been revealed by questioning from one of the grand jurors.<sup>52</sup> Following his grand jury appearance, the FBI scheduled interviews with Chapin, Strachan, and Kalmbach. Dean had responsibility for preparing both Chapin and Strachan for their FBI interviews. Dean recalled that Strachan stated on one occasion in the presence of Richard Moore and Dean that he would perjure himself to prevent Haldeman from becoming involved in the matter.<sup>53</sup> Strachan testified that the discussion with Moore and Dean concerned a reply to a press story in which Strachan offered to take responsibility for approving the hiring of Donald Segretti instead of Mr. Haldeman.<sup>54</sup>

<sup>47</sup> Segretti witness summary, p. 15.

<sup>48</sup> *Ibid.*

<sup>49</sup> See Silbert affidavit, 25 *Hearings* 12405.

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*

<sup>52</sup> 3 *Hearings* 964; Segretti witness summary, p. 15.

<sup>53</sup> 3 *Hearings* 964.

<sup>54</sup> 6 *Hearings* 2488.

After his grand jury appearance, Segretti's next contact concerning his activities in the reelection campaign was in the middle of September when he was contacted by Carl Bernstein and later, by Robert Meyers of the Washington Post who called to ask about his activities. After receiving these calls, Segretti contacted Larry Young again for legal advice and also telephoned Dwight Chapin. Both Chapin and Dean advised Segretti to keep a low profile, and Dean asked Segretti to call and check in periodically.<sup>55</sup>

On October 10, 1972, the Washington Post published the first allegations that Donald Segretti had organized a massive campaign of "political spying and sabotage conducted on behalf of President Nixon's reelection and directed by officials at the White House and the Committee for the Reelection of the President."<sup>56</sup> Segretti recalls being called by John Dean prior to the publication of the article, when Dean told Segretti of the forthcoming article. Dean said he was in Florida and that he was going to fly to Washington to meet Segretti as soon as possible to discuss the allegations in the article.<sup>57</sup>

Segretti immediately flew to Washington, D.C., and called Fred Fielding, Dean's assistant, after checking in at a motel near the airport. Segretti was subsequently directed by Dean or Fielding to leave the motel, since he was registered under his real name, and to take a taxi to within a block of the Executive Office Building where Fielding met him to take him into the Executive Office Building.<sup>58</sup>

Segretti testified that he did not sign in on the entrance logs to the Executive Office Building, since Fielding explained to the guard that "this was the individual who lost his wallet," or something similar.<sup>59</sup> Segretti met with Fielding and Dean for about an hour, and they discussed the allegations contained in the Washington Post article. Dean read the article to Segretti line by line and they discussed the truth or falsity of each of the charges.<sup>61</sup> At the end of the meeting there was a brief discussion about Segretti writing a statement to be released publicly on the following day. After the meeting, Segretti said that Dean and Fielding drove him to a motel near Crystal City where he registered under an assumed name.

Segretti wrote out a brief statement the following morning for possible release by the White House.<sup>62</sup> Segretti testified that Fielding came by his motel room at about 10 a.m. with a statement prepared by people in the White House that denied most of the allegations in the Post. Segretti said he read over Fielding's statement and made some corrections on it, since Fielding indicated they were under some time pressure to get the statement out.

Later on that same day, Segretti was contacted again by Dean who explained that the media people in the White House had decided that the story would die by itself and that there should be no further statement made by the White House at that time.<sup>63</sup>

Segretti's proposed press statement was discussed in a meeting at Dwight Chapin's office that day attended by Ron Ziegler, John Ehrlichman, Dwight Chapin, John Dean, Gordon Strachan, and

<sup>55</sup> Segretti witness summary, p. 15.

<sup>56</sup> Washington Post, Oct. 10, 1972, p. A-1, col. 1.

<sup>57</sup> 10 Hearings 4034.

<sup>58</sup> 10 Hearings 4035.

<sup>59</sup> *Ibid.*

<sup>61</sup> 10 Hearings 4042.

<sup>62</sup> 10 Hearings 4043.

<sup>63</sup> *Ibid.*

later by Fielding after he had received a draft copy of Segretti's proposed press statement. At that meeting it was decided that Segretti should not issue his statement.<sup>64</sup> Following the meeting Dean testified that Ehrlichman directed him to advise Segretti to go *incognito* and hide from the press to avoid further stories until after the election.<sup>65</sup>

When Dean talked to Segretti later that afternoon, Dean mentioned how "nice the Greek Islands were at that time of the year."<sup>66</sup> There was also some discussion about how Segretti should travel back to the west coast. Segretti recalled that Dean told him that it would be a great idea to take a train across the country.<sup>67</sup> Segretti, following Dean's suggestion, then took trains from Washington, D.C. to Philadelphia, from Philadelphia to Chicago, from Chicago to Houston, and from Houston to Nevada. During his travels, Segretti would periodically check in with Dean to learn the latest developments and revelations emerging from the White House and the campaign.<sup>68</sup> Sometime during this same period, Segretti also called Doug Kelly and Robert Benz, his two major operatives in Florida, to inform them of his real identity so they would be prepared for the coming publicity.<sup>69</sup>

Following the election, Dean was asked by Haldeman and Ehrlichman to meet with Segretti to determine the extent of the involvement that Chapin and Strachan had with him.<sup>70</sup> Soon thereafter, Dean met with Segretti in Palm Springs, Calif., at the El Dorado Hotel, where Segretti had been staying for the week prior to the election.<sup>71</sup>

Dean taped his interview with Segretti, with the understanding that the material was privileged and would never be released.<sup>72</sup> Segretti later claimed that the tape should not be disclosed because it was privileged by the attorney-client relationship.<sup>73</sup> However, the committee directed Segretti to answer questions concerning his conversations with John Dean since the facts did not support a bona fide "attorney-client privilege."<sup>74</sup>

Dean testified that his visit to Palm Springs was interrupted by a request on November 11 from Tod Hullin that Dean go to Florida to meet with Ehrlichman and Haldeman, who were there with the President, to report on Dean's interview with Segretti.<sup>75</sup>

Dean flew to Florida immediately, and met with Haldeman and Ehrlichman on about November 12. At that meeting, Dean played the tape of the interview that he had with Segretti. While Dean was discussing the matter with Ehrlichman and Haldeman, Dean recalled that President Nixon requested that Haldeman meet with him in his office. Dean recalled that Haldeman sent a message back to the President that he was meeting with John Dean and that he would be over shortly to report to the President on the results of his meeting.<sup>76</sup>

On about November 15, 1972, Dean testified that he met with Haldeman and Ehrlichman at Camp David. During the first part of the

<sup>64</sup> 3 Hearings 965; see also 6 Hearings 2488.

<sup>65</sup> 3 Hearings 965.

<sup>66</sup> 10 Hearings 4043.

<sup>67</sup> Segretti witness summary, p. 16.

<sup>68</sup> Segretti witness summary, p. 16; 3 Hearings 965.

<sup>69</sup> Segretti witness summary, p. 16.

<sup>70</sup> 3 Hearings 965.

<sup>71</sup> *Ibid.*

<sup>72</sup> 3 Hearings 966.

<sup>73</sup> Segretti witness summary, p. 16.

<sup>74</sup> 10 Hearings 4042.

<sup>75</sup> 3 Hearings 966.

<sup>76</sup> *Ibid.*

meeting, the subject of Chapin remaining at the White House arose. Dean said he learned at that time that the President had decided that Chapin would have to leave the White House staff as a result of the information that had been given to Haldeman and Ehrlichman in Florida.<sup>77</sup>

Other officials in the White House, including Richard Moore, felt that the President should merely issue a letter of censure to Chapin and leave the matter alone. Dean raised this suggestion with Haldeman and Ehrlichman, but Ehrlichman felt it was not possible to raise the matter again with the President.<sup>78</sup> Dean then was given the task of telling Chapin that he had to leave the White House.<sup>79</sup>

Meanwhile, Dean was directed by Ehrlichman to get a job for Segretti, and so he relayed this request to Herb Kalmbach.<sup>80</sup> Kalmbach apparently found a job for Segretti which paid about \$30,000 a year at the Holiday Inn in Montego Bay, Jamaica, in a legal-public relations capacity.<sup>81</sup> Segretti said he was quite interested by the prospect of this high-paying job, but testified that since his mother was sick, and since he received a subpoena from the Senate Judiciary Subcommittee on Administrative Practices and Procedures at about this same time, he decided not to take the job.<sup>82</sup> Dean also discovered that the owner of the Holiday Inn where Segretti was going to work was a friend of President Nixon, and so Dean said he instructed Segretti not to take the job.<sup>83</sup>

At about this time, Dean spoke with Paul O'Brien, counsel for CRP, about possible west coast counsel for Segretti. O'Brien recommended Gordon Hampton, an old friend of his from Los Angeles.<sup>84</sup>

Segretti met with Hampton and wrote out in longhand all the details of his activities during the previous year. Hampton subsequently gave this statement, as well as Segretti's phone bills, address cards, and account book to Paul O'Brien to transmit to John Dean on December 8, 1972.<sup>85</sup> Hampton said he sent this material to Dean even though Dean had never requested it because he felt that Dean was acting as co-counsel on the case.<sup>86</sup> These materials were subsequently turned over to the Select Committee by John Dean pursuant to a subpoena duces tecum.

After Segretti was subpoenaed by the Senate Subcommittee on Administrative Practices and Procedures, he retained John Pollock, a Los Angeles trial attorney.<sup>87</sup> Pollock said that Hampton told him that Pollock's name had been "submitted to or screened by or approved by the White House."<sup>88</sup> During the period that Hampton and Pollock represented Segretti, O'Brien kept in touch with them and reported all of their activities to John Dean.<sup>89</sup> There is no evidence that Hampton or Pollock received any directions from third parties on how to represent their client, Donald Segretti.

<sup>77</sup> *Ibid.*

<sup>78</sup> *Ibid.*

<sup>79</sup> John Dean interview, Sept. 10, 1973, p. 8.

<sup>80</sup> *Id.* at p. 4.

<sup>81</sup> Segretti witness summary, p. 17.

<sup>82</sup> *Ibid.*

<sup>83</sup> Interview with John Dean, Sept. 10, 1973, p. 4.

<sup>84</sup> O'Brien interview, Sept. 1973, p. 2.

<sup>85</sup> Hampton interview, Sept. 1, 1973, p. 4.

<sup>86</sup> *Id.* at p. 6.

<sup>87</sup> Pollock interview, Aug. 28, 1973, p. 2.

<sup>88</sup> *Id.* at p. 3; Hampton denied that he ever told Pollock that he had been cleared by anyone in the White House (Hampton interview).

<sup>89</sup> Interviews with Dean, O'Brien, Hampton, and Pollock.

*d. White House Press Response*

On October 10, 1972, the Washington Post published the first allegation that the Watergate bugging incident stemmed "from a massive campaign of political spying and sabotage conducted on behalf of President Nixon's reelection and directed by officials at the White House and the Committee for the Re-Election of the President."<sup>90</sup> In addition, the Post alleged that Donald Segretti traveled around the country recruiting agents to sabotage opposing campaigns and to gather intelligence information on opponents. These revelations by the Washington Post initiated a concerted and organized effort by the White House and the Committee To Re-Elect the President to deceive, mislead, and misinform both the public and the press as to the activities of Donald Segretti and his agents.

First, as described above, Segretti was immediately called back to Washington, and then instructed to "lay low" until after the election in November. In the daily press briefing at the White House on October 10, following the publication of the story about Segretti in the Washington Post, White House Press Secretary Ron Ziegler refused to provide any details or further information at all to press inquiries concerning the Segretti matter and other information revealed by the Washington Post.<sup>91</sup>

On October 13, 1972, the White House press office was contacted by Bob Woodward and Carl Bernstein of the Washington Post who said that they would report on Sunday that Dwight Chapin was a White House contact for Donald Segretti, that Segretti was paid a \$20,000 annual salary from a "trust account in a lawyer's name \* \* \* a high-placed friend of the President," that Segretti received some assignments from E. Howard Hunt, and that Segretti reported frequently to Chapin on the progress of the sabotage activities. Despite the fact that Segretti had flown to Washington, D.C., on October 10, to explain exactly what he had done, and despite the knowledge of Strachan and Chapin about the details of Segretti's hiring, the White House issued the following statement:

*Statement by Dwight Chapin*

As the Washington Post reporter has described it, the story is based entirely on hearsay and is fundamentally inaccurate.

For example, I do not know, have never met, seen, or talked to E. Howard Hunt. I have known Donald Segretti since college days but I did not meet with him in Florida as the story suggests and I certainly have never discussed with him any phase of the grand jury proceedings in the Watergate case.

Beyond that I don't propose to have any further comment.<sup>92</sup>

After the Post published the story on October 15, 1972, a meeting was held in the Roosevelt Room of the White House among Ehrlichman, Ziegler, Buchanan, Richard Moore, Dwight Chapin, and John

<sup>90</sup> Washington Post, Oct. 10, 1972, p. A1.

<sup>91</sup> *Ibid.*

<sup>92</sup> 3 Hearings 1209.

Dean. The purpose of this meeting was to prepare Ziegler for his press briefing the following day with reference to the Segretti stories in the paper. A secretary was present during the meeting and recorded much of the hypothetical questioning and answering of Mr. Ziegler by those present.<sup>93</sup>

The instructions given to Ziegler on October 15, 1972, and throughout the rest of the Presidential campaign were designed to withhold information from the public about Segretti's activities so that the President's chances for reelection would not be affected. Ziegler's basic response was, "Gentlemen, I have nothing to add to what Chapin has already said on the subject."<sup>94</sup> Judging from what Chapin had already said on the subject, Ziegler's response to such press inquiries was hardly forthcoming.

Notes from the meeting indicate that it was known October 15 that Herbert Kalmbach paid Segretti for his expenses and salary during his employment.<sup>95</sup> And yet when the White House was informed by the Washington Post on October 15, 1972, that a story stating that Kalmbach had authorized payments to Donald Segritti would appear the following day, the White House had no comment.<sup>96</sup>

At the 8:15 a.m. meeting in the White House, on Monday, October 16, 1972, it was decided that Ron Ziegler, RNC Chairman Robert Dole, and Clark MacGregor should all make statements attacking the Post's stories of the previous days. Ziegler characterized the charges in the Washington Post as "malicious," and stated that he would neither discuss nor deny the charges because to do so would "dignify" them.<sup>97</sup>

During the day, MacGregor was advised that both Ziegler and Dole had made strong statements, and so he thought there was no longer a need for him to make a statement. However, MacGregor testified that John Ehrlichman called him and asked him to read a statement that had been prepared.<sup>98</sup> MacGregor testified that he did not know the author of the statement, and that he opposed merely reading the statement to the press and then refusing to answer any questions. MacGregor also testified that he had no knowledge that the CRP or the White House were supporting any type of political espionage. However, MacGregor had talked to Dwight Chapin prior to his press conference on October 16, and had been informed that Segretti had been hired by Chapin to perform pranks during the campaign.<sup>99</sup> Nevertheless, MacGregor read the prepared statement on the afternoon of October 16, 1972, which said, in part:

Using innuendo, third-person hearsay, unsubstantiated charges, anonymous sources, huge scare headlines—the Post has maliciously sought to give the appearance of a direct connection between the White House and the Watergate—a charge which the Post knows—and half a dozen investigations have found—to be false.

The hallmark of the Post's campaign is hypocrisy—and its celebrated "double standard" is today visible for all to see \* \* \*.

<sup>93</sup> See 3 *Hearings* 1200 for a copy of the notes.

<sup>94</sup> 3 *Hearings* 1202.

<sup>95</sup> 3 *Hearings* 1200.

<sup>96</sup> Washington Post, Oct. 16, 1972, p. A1.

<sup>97</sup> New York Times, Oct. 17, 1972, p. 28.

<sup>98</sup> 12 *Hearings* 4903.

<sup>99</sup> 12 *Hearings* 4905.

It is said that this is a dirty campaign, but all the dirt is being thrown by only one side. The mudslinging, the name calling, the unsubstantiated charges, the innuendoes, the guilt by association, the character assassination, the second-hand hearsay are all tactics exclusively employed by the McGovernites and their apologists. President Nixon will remain on the high road, discussing issues of real concern to the American people in a fair, forthright, and hardhitting manner \* \* \*.<sup>1</sup>

On October 25, 1972, the Washington Post reported that H. R. Haldeman was one of five individuals who had authority to approve payments from a secret cash fund during the 1972 campaign. While this article did not relate specifically to Segretti, it was published in the same time frame as the earlier Segretti articles. Again, the White House issued only a terse statement to the Post which said: "Your inquiry is based on misinformation because the reference to Bob Haldeman is untrue." Neither Haldeman nor Gerald L. Warren, Deputy White House Press Secretary, would elaborate any further on the story.<sup>2</sup> Once again, Ron Ziegler labeled the story "untrue" and accused the Washington Post of "shabby journalism" and "a blatant effort at character assassination." Clark MacGregor joined Ron Ziegler in issuing a flat, official denial of the Washington Post story.<sup>3</sup> Subsequent testimony before this committee revealed that Haldeman authorized the hiring of Segretti and authorized payments from the cash fund kept by Herbert W. Kalmbach.<sup>4</sup>

On November 1, Dwight Chapin drafted a proposed statement to be released by the White House which briefly related some details of the hiring of Segretti. Four days later, Chapin drafted a memorandum for John Dean which was marked "eyes only." This memo was entitled "Chronology of Activity," and outlined for Dean some of the facts concerning Segretti's hiring by Chapin and Strachan. The purpose of the operation, according to Chapin was that:

\* \* \* we were after information as to the schedules of candidates, people who could infiltrate headquarters, could ask embarrassing questions and could organize counter demonstrations to those we expected our opposition to come forth with during the campaign.<sup>5</sup>

The memo also noted that in January or February 1972, after Gordon Liddy reported to Gordon Strachan that there was an unidentified agent in the field who was causing some problems for the CRP, "Strachan checked two people (----- and -----) and then Don was advised to report to Liddy."<sup>6</sup> The two individuals whose names were left blank were Haldeman and Mitchell.

Following the election, Dean testified that Haldeman asked him to write a report for public release that would include full disclosure of the Segretti matter.<sup>7</sup> Taking the information provided by Chapin, Segretti, and others, Dean drafted a series of carefully worded affida-

<sup>1</sup> 12 Hearings 5019-20.

<sup>2</sup> Washington Post, Oct. 25, 1972, p. A1.

<sup>3</sup> New York Times, Oct. 26, 1972, p. 32.

<sup>4</sup> 7 Hearings 2877.

<sup>5</sup> See exhibit No. 31 in *U.S. v. Chapin*.

<sup>6</sup> *Ibid.*

<sup>7</sup> 3 Hearings 967.



vits for each individual whose name had been mentioned by the press in relation to political sabotage and espionage activities. Based on the affidavits, Dean with the help of Richard Moore, wrote a summary draft report and attached the affidavits. This report was forwarded to Haldeman on December 5, 1972.<sup>8</sup>

Haldeman gave the report to Ehrlichman, who made some penciled changes, and then forwarded it to Ron Ziegler. On December 13, a meeting was held in Ziegler's office among Ziegler, Haldeman, Dean, and Moore to discuss whether or not to release the information.

Richard Moore, John Dean, and Dwight Chapin all testified that Chapin had been in favor from the start of releasing a brief statement whereby Chapin would accept responsibility for the hiring of Segretti and would apologize for having done so. However, at the meeting on December 13, Dean's proposed releases were discussed, and in the words of Richard Moore, "John Dean's memos just raised more questions than they asked [sic]. It was not a complete statement, it wouldn't have been a proper one to put out and I think I probably said \* \* \* it wasn't justified and it was just shelved."<sup>9</sup> Dean recalled that nothing was resolved at the meeting and that it was the consensus of the group that the White House should continue to do nothing on the "general theory that no one would be arrested for what they didn't say."<sup>10</sup>

## 2. OTHER INTELLIGENCE-GATHERING AND DISRUPTION

Although the activities of Segretti and his associates were the most widespread of the White House and CRP sponsored covert campaign activities, there were other significant inappropriate activities during the 1972 campaign. They are summarized below.

### *a. Ruby I*

As noted elsewhere in this report,<sup>11</sup> Senator Muskie was considered the leading Democratic contender and a potentially significant threat to President Nixon's reelection until his setbacks in the spring 1972 primaries. Trying to obtain information on his campaign activities was a high priority of those planning the reelection campaign. An early example of a covert operation aimed at Muskie was the "Ruby I" project, which involved planting someone in the Muskie campaign.

The plan was developed by Jeb Magruder, with the help of Ken Rietz, beginning in August 1971.<sup>12</sup> Magruder asked Rietz if he could arrange to plant someone in the Muskie campaign who would be responsible for obtaining as much information concerning the campaign as possible, including intraoffice memos, speeches, travel schedules, press releases and position papers. According to Rietz, Magruder

<sup>8</sup> See 3 *Hearings* 1210.

<sup>9</sup> 5 *Hearings* 2032.

<sup>10</sup> 3 *Hearings* 967.

<sup>11</sup> See section on Campaign Strategy, p. 158, *supra*.

<sup>12</sup> Rietz interview, Sept. 19, 1973. The idea of planting someone in the Muskie campaign was first suggested, according to Magruder, by either Mitchell, Haldeman, or Magruder. Magruder interview, Oct. 1, 1973, p. 10. Mitchell denied making such a suggestion but admitted receiving information from a plant in Muskie headquarters. Mitchell interview, June 27, 1973. Haldeman has denied any knowledge of such a political operation. DNC Deposition, May 22, 1973, p. 21-22.

assured him that such an operation was legal. Rietz told Magruder that he would confer with a friend on establishing a workable plan.<sup>13</sup>

After this conversation with Magruder, Rietz contacted John Buckley, who was director of the inspection division at the Office of Economic Opportunity (OEO) and asked Buckley to help him place a volunteer in the Muskie headquarters who would channel information to CRP. Buckley agreed to help.<sup>14</sup>

In late September 1971, Buckley told Rietz that he had drawn up a plan, inspired by a newspaper column telling of a free taxi ride offered to Senator Humphrey,<sup>15</sup> to have a cab driver offer his services to the Muskie organization. Buckley told Rietz he had already secured a cab driver for the job, and Rietz approved the plan.<sup>16</sup>

Buckley had selected Elmer Wyatt, an old acquaintance of his, for the job. Buckley instructed Wyatt to go to Muskie headquarters and offer his services as a volunteer. Wyatt understood that he would be paid, although he and Buckley did not talk finances at their first meeting. Rietz said that Magruder later approved payment of \$1,000 per month.<sup>17</sup> Wyatt went to the Muskie headquarters where he first worked as a volunteer doing errands such as picking up dry cleaning and mailing campaign literature to other Muskie offices. Eventually, however, Wyatt was asked to deliver inter-office mail between Muskie's Senate office and his campaign headquarters. Wyatt kept Buckley informed on his progress as a Muskie volunteer,<sup>18</sup> and Buckley in turn reported to Rietz that Wyatt was established as a volunteer at the Muskie headquarters.

From September 1971 until April 1972, Buckley worked with Wyatt in obtaining and photographing confidential documents from the Muskie campaign during the time Buckley was working at OEO. In the early stages, Wyatt would call Buckley before leaving to deliver documents either to or from Muskie's Senate office. Wyatt would then pick up Buckley on a specified corner and, while riding in Wyatt's cab, Buckley would review and photograph pertinent documents. When this operation was completed, the material was delivered to the Muskie campaign headquarters or Senate office. This procedure of taking pictures in the back seat was unsatisfactory for Buckley, and so he rented office space at 1026 17th Street NW. in Washington. Buckley also purchased new equipment which was more effective in photographing documents.<sup>19</sup> Wyatt obtained press releases, itineraries, internal memoranda, drafts of speeches and position papers, and brought them regularly to Buckley's rented office to be photographed by Buckley during his lunch hour. Buckley testified that no mail was ever opened.<sup>20</sup>

After developing the film, Buckley turned it over to Rietz during meetings on various corners of Pennsylvania Avenue.<sup>21</sup> Rietz in turn gave the film to Magruder.<sup>22</sup>

In November 1971, Magruder gave Herbert Porter some developed 35-mm film and a viewer and asked him to review the film without offering any explanation of its origin. Porter stated that Magruder

<sup>13</sup> Rietz interview, Sept. 19, 1973.

<sup>14</sup> 11 *Hearings* 4438.

<sup>15</sup> See Washington Star, Morris Siegal column, Sept. 27, 1971.

<sup>16</sup> 11 *Hearings* 4439.

<sup>17</sup> Rietz interview, Sept. 19, 1973.

<sup>18</sup> Elmer Wyatt interview, Sept. 28, 1973, p. 1.

<sup>19</sup> 11 *Hearings* 4441-43.

<sup>20</sup> 11 *Hearings* 4443.

<sup>21</sup> *Ibid.*

<sup>22</sup> Rietz interview, Sept. 19, 1973.

occasionally asked him for the film and viewer to show them to Mitchell. Porter recalled that later Rietz brought the film directly to Porter at Magruder's instructions. Porter's job was to review the film and bring anything of interest to Magruder's attention.<sup>23</sup>

On occasion, Martha Duncan, Porter's secretary, typed transcripts based upon the photographed documents for forwarding to Magruder. At Magruder's request, Porter testified he also sent copies of the transcripts to Strachan.<sup>25</sup>

In December 1971, Porter sent a transcript of one of the filmed documents from Muskie headquarters to Magruder. It was a staff memorandum from Muskie's campaign manager suggesting that Muskie, as chairman of a subcommittee on Government operations, could get good coverage if he held tax hearings of his committee in California. Magruder asked Porter to have the transcript retyped on plain bond stationery and sent to Evans and Novak. Porter did so, Evans and Novak printed it, and the hearings were never held.<sup>26</sup>

On another occasion, Porter told Magruder he had a 20-page speech that Muskie was planning to deliver against the nomination of William Rehnquist to the Supreme Court. According to Porter, Magruder told him to have a transcript typed from the filmed document because Mitchell wanted to see it.<sup>27</sup> The floor plan of Muskie's headquarters was also obtained through this political intelligence operation.<sup>28</sup>

In December 1971, Gordon Liddy began working at the Committee To Re-Elect the President, and so Magruder instructed Porter to give the film and viewer to Liddy.<sup>29</sup> At about the same time Howard Hunt took over Rietz's job of obtaining the film from Buckley. At Liddy's request,<sup>30</sup> Hunt met Buckley on various corners of Pennsylvania Avenue as Rietz had done previously. During these brief meetings, Hunt used the alias Ed Warren, and Buckley used the alias Jack Kent. Throughout their association Hunt never knew Buckley's real name.

Although Hunt was then employed by the Robert R. Mullen Company, he was also working closely with Gordon Liddy, who was responsible for the political intelligence-gathering capabilities at CRP.<sup>31</sup> The code name "Ruby I" evolved as part of the overall "Gemstone" plan, and was used primarily by Liddy and Hunt when referring to Wyatt. They also referred to John Buckley, alias Jack Kent, as "Fat Jack."<sup>32</sup>

Hunt met with Buckley approximately twelve to fifteen times. Buckley turned over film to Hunt, who then gave it over to Liddy. Hunt also gave Buckley plain envelopes containing cash on occasion to cover Buckley's expenses. This procedure continued until April 1972, when it was decided that Muskie was no longer a viable candidate and the operation was terminated.<sup>33</sup>

The Ruby I operation, as Hunt and Liddy referred to it, lasted approximately eight months and cost about \$8,000. Buckley testified

<sup>23</sup> Porter interview, Sept. 6, 1973, p. 19.

<sup>24</sup> 2 *Hearings* 670.

<sup>25</sup> 2 *Hearings* 669-670. See also exhibit 34, p. 351. For other examples of copied information, see 11 *Hearings* 4889.

<sup>26</sup> *Id.* at p. 670.

<sup>27</sup> Rietz interview, Sept. 19, 1973.

<sup>28</sup> Porter interview, Aug. 20, 1973, p. 20.

<sup>29</sup> Hunt executive session, June 12, 1973, pp. 208-09.

<sup>30</sup> 2 *Hearings* 792.

<sup>31</sup> Hunt executive session, June 12, 1973, p. 209.

<sup>32</sup> 9 *Hearings* 3761.

that he and Wyatt did not participate in any other political intelligence operations for the CRP.<sup>34</sup>

### *b. Sedan Chair I*

The genesis of Sedan Chair, according to Bart Porter, was Jeb Magruder's concern with the favorable publicity the Democrats received during past campaigns from the humor generated by Democratic prankster Dick Tuck and those like him who were making Republicans the objects of their pranks.<sup>35</sup> In an effort to get similar headlines, Magruder instructed Porter to obtain advance schedules for leading Democratic contenders as part of a plan to carry out disruptive activities.<sup>36</sup>

The first operation arranged by Porter involved a Muskie visit to Chicago. An unidentified associate of Porter's organized a crowd carrying Nixon signs to meet Muskie at the Chicago airport, a move that generated some news in the local papers. Similar events took place in Cincinnati and Columbus, Ohio, and in cities in New Jersey. According to Porter the efforts were unsuccessful, eliciting in the media little favorable Republican publicity.<sup>37</sup>

Occasionally Porter paid his field operatives small amounts of money, which he received from Hank Buchanan, the accountant at CRP. In the early stages, he stated that he never distributed more than \$100 or \$200 to any individual.<sup>38</sup>

In conjunction with these efforts, Porter went to Ron Walker, then the President's chief "advance man," and asked Walker if he had any associates who might be proficient at "dirty tricks."<sup>39</sup> Walker recommended Roger Greaves, a friend of his, and shortly thereafter Greaves, Porter, and Magruder met in California. Following the meeting Greaves was retained and given the code name "Sedan Chair," a reference to an old Marine Corps operation that Porter remembered.<sup>40</sup>

It was Porter's understanding that Magruder wanted someone to follow or precede Democratic candidates and cause general harassment. For example, Porter said that Magruder envisioned an individual who would rob motorcades of automobile keys, schedule fake meetings, or steal shoes of the opposition workers that were left in hotel halls to be polished.<sup>41</sup> Greaves was told that he would be reimbursed for expenses and that Porter would be the CRP contact. He was told that if successful in early forays he would be hired on a long-term basis.<sup>42</sup>

Greaves' recollection of the meeting with Porter and Magruder is that Magruder wanted someone to filter stories to the media, to gather information from the opposition, and to cause harassment. Magruder, according to Greaves, stressed the need for performing his tasks covertly. Greaves said he was told by Porter that he should terminate the job he then had and that cover employment would be arranged with a large corporation, which would pay Greaves' salary for work performed at Porter's direction.<sup>43</sup> According to Porter, Greaves at

<sup>34</sup> 11 *Hearings* 4445.

<sup>35</sup> Interview of Herbert L. Porter, Apr. 2, 1973.

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> Interview of Herbert L. Porter, Aug. 20, 1973.

<sup>40</sup> Interview of Herbert L. Porter, Apr. 2, 1973.

<sup>41</sup> *Ibid.*

<sup>42</sup> Interview of Herbert L. Porter, Aug. 20, 1973.

<sup>43</sup> Interview of Roger Greaves, Aug. 21, 1973.

first expressed reservations about taking the job, but agreed with Magruder's suggestion that he perform some pranks in California on a trial basis.<sup>44</sup>

A November 17, 1971, confidential memo from Porter to Magruder concerning the operation reads as follows:

Things went well in Los Angeles with our friend. I would like the "green light" to proceed with the second part of the plan. This will involve finding him a "suitable" home.

He is ready, willing, and most able. Any ideas? <sup>45</sup>

Porter stated that the "suitable" home, referred to above, was finding a corporation to pay Greaves' salary while he covertly worked for CRP.<sup>46</sup> In addition, the date of the memo above indicates that it was written after some of Greaves' early successful activities described below.

Shortly after the meeting in California Greaves received a call from Porter, who relayed Muskie's schedule and instructed Greaves to arrange for pickets at a Muskie appearance. Blacks and "hippies" were preferred as pickets by Porter according to Greaves. Porter asked Greaves to place Nixon signs at the airport arrival of Senator Muskie and to place anti-Muskie signs at a dinner at which the candidate was scheduled to speak. On another occasion, Porter said that Magruder told him to have Greaves place some signs at the Muskie rally at Whittier College and perhaps get media coverage. This rally was the same occasion when Chapin instructed Segretti to arrange for pickets.<sup>47</sup>

According to Porter, money was sent to Greaves on three occasions.<sup>48</sup> On the first occasion, Greaves claimed he needed \$300 immediately for pickets who were to appear at the Muskie appearance at Whittier College.<sup>49</sup> The second instance occurred when either Magruder or Ken Khachigian asked Porter to send Greaves 25 copies of the anti-Muskie pamphlet ostensibly put out by the "Citizens for a Liberal Alternative."<sup>50</sup> A Muskie fundraising dinner was planned in Beverly Hills, and Khachigian or Magruder thought it would be humorous to place a copy of the pamphlet in each of the menus, according to Porter.<sup>51</sup> However, because the dinner never occurred—Senator Muskie was apparently ill—this stunt was sidetracked.<sup>51a</sup> The third time Porter forwarded money to Greaves was in January 1972, when Greaves finally decided to join the reelection campaign as a political prankster.<sup>52</sup>

Porter testified that Magruder told him he needed someone to work fulltime on political pranks in January 1972. It was Porter's impression that Magruder was under pressure to make immediate arrangements for someone to go on to New Hampshire and then to Florida to perform pranks and familiarize himself with the Muskie campaign.<sup>53</sup>

Porter, contacted Greaves and instructed him to use his imagination in performing political pranks that would get good coverage in New Hampshire.<sup>54</sup> A salary of \$2,000 per month was agreed upon.

<sup>44</sup> *Ibid.*

<sup>45</sup> See exhibit 35, p. 352.

<sup>46</sup> Porter interview, Aug. 20, 1973.

<sup>47</sup> See p. 164 *supra*.

<sup>48</sup> Porter interview, Aug. 20, 1973.

<sup>49</sup> *Ibid.*

<sup>50</sup> See p. 157, *supra*, for a fuller discussion of the "Citizens for a Liberal Alternative."

<sup>51</sup> Porter interview, Aug. 20, 1973.

<sup>51a</sup> *Ibid.*

<sup>52</sup> *Ibid.*

<sup>53</sup> Interview of Herbert L. Porter, Apr. 2, 1973.

<sup>54</sup> Interview of Herbert L. Porter, Aug. 20, 1973.

Before Greaves commenced his activities, he had his picture taken by Porter. This was done at the request of Gordon Liddy, who explained to Porter that some of his underlings would be doing some rough work in New Hampshire and he wanted to avoid injuring Greaves.<sup>55</sup>

By all accounts, Greaves' performance in New Hampshire was a dismal failure. Greaves often did nothing more than visit bars and listen to conversations about the Muskie campaign.<sup>56</sup> Porter has testified that Greaves said he arranged calls to voters in the middle of the night with the caller falsely stating that they were "Harlemites for Muskie" requesting the voter's support for Muskie. In his interview with the Select Committee staff, Greaves flatly denied any involvement in this episode.<sup>57</sup>

Greaves spent some time in New Hampshire and then went to Florida where he again was supposed to organize activities disruptive to Muskie's campaign. Greaves stayed in Florida only a few days before returning to California.<sup>58</sup> The next time Porter heard from Greaves was when Greaves called and said he had returned to California and was resigning for personal reasons.<sup>59</sup>

### *c. Sedan Chair II*

Following Greaves' departure, Magruder told Porter he needed another operative in the field to gather information about various Democratic candidates. Magruder said he was directed to place another individual in the opposition campaign by John Mitchell.<sup>60</sup> Magruder stated that this person was to provide information only and was not to engage in any disruptive activities.<sup>61</sup> Porter instructed Roger Stone, a young scheduler in his office, to make arrangements for someone who would work "in two or three of the primary campaigns as kind of an eyes and ears. \* \* \*"<sup>62</sup>

Roger Stone's recollection of the original Sedan Chair II discussions conflicts with the testimony of Magruder and Porter. Stone recalled discussing the need with Porter for an individual who would perform political pranks as well as gather useful information concerning opposition campaigns.<sup>63</sup> Stone said he discussed the need for a "clever fieldman" with Morton Blackwell, who recommended Michael W. McMinoway of Louisville, Ky.<sup>64</sup>

After introductory telephone conversations with McMinoway, Stone flew to Louisville, and using the assumed name of Jason Rainer, Stone explained to McMinoway that he was being recruited to "work in the Presidential primary states and track and infiltrate the Democratic organizations \* \* \*"<sup>65</sup> The two agreed that McMinoway would receive \$1,500 a month for his services<sup>66</sup> and that after "Rainer" designated

<sup>55</sup> *Ibid.*

<sup>56</sup> Interview of Herbert L. Porter, Aug. 20, 1973; see also, Greaves interview, Aug. 21, 1973.

<sup>57</sup> Greaves interview, Aug. 21, 1973.

<sup>58</sup> *Ibid.*

<sup>59</sup> Interview of Herbert L. Porter, Apr. 21, 1973.

<sup>60</sup> Magruder interview, Aug. 18, 1973, p. 6.

<sup>61</sup> Magruder interview, Oct. 1, 1973, p. 9.

<sup>62</sup> 2 *Hearings* 659; interview of H. L. Porter, Aug. 20, 1973, p. 23.

<sup>63</sup> Roger Stone interview, Aug. 15, 1973.

<sup>64</sup> *Ibid.* See also 11 *Hearings* 4478. See also, Blackwell interview, Sept. 9, 1973.

<sup>65</sup> 11 *Hearings* 4478.

<sup>66</sup> McMinoway received periodic payments from Stone beginning on Mar. 17, 1972, continuing through July 8, 1972. These payments, according to McMinoway, amounted to \$5,808.10. 11 *Hearings* 4479.

which Democratic organizations were to be infiltrated, the "actual operation procedures" would be left up to McMinoway.<sup>67</sup> At this first meeting and throughout McMinoway's tenure, efforts were made to conceal CRP's involvement in the undertaking. Stone told McMinoway only that "he was working for a group of concerned citizens that were interested in the outcome of the 1972 Presidential election."<sup>68</sup> McMinoway was supplied with a post office box in Washington to which he was to send information, thereby avoiding any contact with CRP or its officials.<sup>69</sup> McMinoway was subsequently given instructions by Stone, who said he received them from Porter, who said he obtained them from Magruder.<sup>70</sup> Magruder received most of his instructions from John Mitchell.<sup>71</sup>

In his testimony before the Select Committee, McMinoway described how he infiltrated a Democratic candidate's campaign: "The usual procedure was to start off as a volunteer worker in the particular organization from which I wished to gather information."<sup>72</sup> Hard work and seemingly helpful efforts on behalf of a particular candidate advanced McMinoway in the organization. "My objective", McMinoway testified, "was to work within an organization, to gain their confidence and to therefore be able to be in a position where I could personally observe and find out the information that I felt important to the organization and its structure."<sup>73</sup> Occasionally McMinoway worked simultaneously for two or three Democratic candidates.<sup>74</sup> After obtaining relevant information from the campaign organizations, McMinoway called Stone or transmitted the materials to Stone via the Washington post office box.<sup>75</sup>

Stone in turn passed the information he received on to Bart Porter.<sup>76</sup> Porter gave the information to Magruder and Bob Reisner, his assistant, in the form of memos typed on blank paper beginning "a confidential source reports."<sup>77</sup> Magruder said that he sent this information on to John Mitchell and to Gordon Strachan for H. R. Haldeman.<sup>78</sup> Finally, Strachan testified that he included information from Sedan Chair II in his "political matters" memoranda for H.R. Haldeman. He specifically recalled including the report on the Pennsylvania Humphrey campaign discussed below.<sup>79</sup>

In addition to this information-gathering function, McMinoway occasionally engaged in disruptive activities which affected particular Democratic campaigns.

McMinoway's first assignment from Stone and the chain of command above him was to go to Wisconsin in March 1972, and infiltrate the Muskie headquarters. Stone instructed McMinoway to obtain information about Muskie staff members, campaign finances, schedules of events and any other useful information. McMinoway's diary corroborated his success in gathering information in Wisconsin.<sup>80</sup>

<sup>67</sup> 11 *Hearings* 4480.

<sup>68</sup> *Ibid.* About 1 month after he began, McMinoway, reflecting upon the nature of his activities, concluded that he was working for the Republican Party.

<sup>69</sup> *Ibid.*

<sup>70</sup> Porter interview, Aug. 20, 1973; Stone interview, Aug. 15, 1973.

<sup>71</sup> Magruder interview, Aug. 18, 1973, p. 6.

<sup>72</sup> 11 *Hearings* 4481.

<sup>73</sup> 11 *Hearings* 4507.

<sup>74</sup> 11 *Hearings* 4483.

<sup>75</sup> At first McMinoway testified that he called Stone every other day; later in the operation McMinoway testified he spoke with Stone "several times a day." 11 *Hearings* 4482.

<sup>76</sup> Stone interview, Aug. 15, 1973, p. 6.

<sup>77</sup> Porter interview, Aug. 20, 1973, p. 16.

<sup>78</sup> Magruder interview, Aug. 18, 1973, p. 2.

<sup>79</sup> 6 *Hearings* 2441.

<sup>80</sup> 11 *Hearings* 4483.

Other activities of McMinoway in Wisconsin were intended to disrupt Democratic candidates. On March 28, 1972, instead of supervising the distribution of Muskie literature, his diary shows that McMinoway talked his group of workers into drinking beer.<sup>81</sup> On March 30, he visited the Humphrey headquarters and gave them a schedule of events of the Muskie campaign.<sup>82</sup> On March 25, while still ostensibly a Muskie worker, McMinoway visited McGovern's headquarters and talked to a worker there about possible disruptions of a Muskie television interview.<sup>83</sup> Finally, on March 31, the diary shows that he "went down to headquarters and diverted some election day precinct materials."

Following the Wisconsin primary, Stone, acting on orders from Porter, told McMinoway to infiltrate the Pennsylvania Humphrey campaign. Using an alias, McMinoway presented himself as a volunteer and was welcomed to the campaign. He routinely began sending relevant information about the campaign to Washington.

The Humphrey campaign also asked McMinoway to help supervise their phone bank operations. In this capacity, he "promptly put people [on the night shift] on calling and duplicating cards that had been done by the day shift."<sup>84</sup> In addition, he rearranged names to be called so that the night shift would make the small calls as the day shift.<sup>85</sup> The impact of this action was noted in his diary: "Repetition of calls is starting to aggravate the volunteer block captains. The captains are getting called two or three times and it is beginning to bother them. Some captains have already quit because of the repeated calls."<sup>86</sup>

At one point McMinoway wrote in his diary that he hired people of "low caliber qualifications" to work the phone banks.<sup>87</sup> On another occasion, he rearranged stacks of names to be called so that prepared messages to be read by the caller were directed to the wrong group.<sup>88</sup> Calls for black voters were substituted for calls to union members and vice versa. On still another occasion, McMinoway falsely told volunteers who were scheduled to work the phone banks that they would not be needed that particular day.<sup>89</sup> McMinoway testified that his phone bank activities caused considerable disruption to the Humphrey campaign,<sup>90</sup> because, as he wrote in his diary, "Humphrey is spending one-third of his budget on the phone bank and literature packets that the block captains will distribute."<sup>91</sup>

As in Wisconsin, McMinoway's "loyalties" were not confined to the Democratic candidate he had volunteered to assist. In an April 22, 1972, entry in his diary, he shows he called people from the Humphrey headquarters and urged them to vote for Senator Jackson.<sup>92</sup>

McMinoway testified that he impressed the Humphrey people with his willingness to work. Toward the end of the Pennsylvania campaign, McMinoway testified that a national coordinator asked him to

<sup>81</sup> 11 Hearings 4484.

<sup>82</sup> *Ibid.*

<sup>83</sup> 11 Hearings 4486.

<sup>84</sup> 11 Hearings 4487-88.

<sup>85</sup> *Ibid.*

<sup>86</sup> *Ibid.*

<sup>87</sup> *Ibid.*

<sup>88</sup> 11 Hearings 4489.

<sup>89</sup> 11 Hearings 4491.

<sup>90</sup> 11 Hearings 4488.

<sup>91</sup> 11 Hearings 4709.

<sup>92</sup> 11 Hearings 4488.



work at the Humphrey Los Angeles headquarters in the California primary. In his diary, McMinoway quoted from an alleged letter that the national coordinator prepared to introduce him in California. The letter said McMinoway was "an avid Humphrey supporter that could be trusted in any project."<sup>93</sup>

McMinoway was then assigned by Stone and his superiors to go to California and infiltrate both the McGovern and Humphrey campaigns.<sup>94</sup> This assignment came after the mid-April 1972 meeting when Gordon Strachan testified that H. R. Haldeman told him to tell G. Gordon Liddy "to transfer whatever capability he had from Muskie to McGovern."<sup>95</sup> McMinoway testified that he engaged in the same activities in California as he had in prior primaries, and that he reported by telephone to Stone daily.

McMinoway testified that he learned of the Watergate break-in after the California primary, while awaiting his next assignment. McMinoway said he immediately called Stone, only to learn that his number had been disconnected that same morning. About two days later, McMinoway said that Stone called him and asked that he continue his activities, explaining that Stone had taken no part in any illegal actions.<sup>96</sup> McMinoway said he remained unconvinced, but that he agreed to go to Washington to meet with Stone's supervisor to receive reassurances of the propriety of his undertaking. In Washington, McMinoway testified he received a phone call in his hotel room: " \* \* \* The man identified himself merely as Mr. M., just for the matter of having something, a reference, for me to contact, and he reassured me that the organization I was working with was not involved in illegal activities and quite strenuously passed on to me the fact that they were not, in fact, connected with the people that were apprehended."<sup>97</sup>

This mysterious caller was Bart Porter, who stated that he had discussions with McMinoway after the June 17 break-in. Porter had no recollection of any discussion about the break-in, recalling that the conversation focused on a possible increase in salary for Sedan Chair II.<sup>98</sup>

McMinoway testified that after this convention he volunteered for work at McGovern's national headquarters in Washington, where he worked closely with McGovern's administrative staff.<sup>99</sup> As he explained, "by this time I had become a familiar face."<sup>1</sup>

At the Democratic National Convention, McMinoway claimed to achieve new successes in his efforts to infiltrate the opposition. The first 5 days there he said were used to "amass information on where different delegations were staying, where different hotels were, the locations, and so forth."<sup>2</sup> Thereafter McMinoway served as a member of the security staff in McGovern's headquarters at the Doral Hotel, a position which, he testified, occasionally allowed him access to otherwise private areas. As he explained in his diary, McMinoway said he was a

<sup>93</sup> 11 *Hearings* 4490.

<sup>94</sup> 11 *Hearings* 4492.

<sup>95</sup> 6 *Hearings* 2455.

<sup>96</sup> 11 *Hearings* 4494. Stone said that McMinoway was in Washington before the break-in, and never expressed any concern about the break-in (Stone interview).

<sup>97</sup> 11 *Hearings* 4495.

<sup>98</sup> Porter interview, Aug. 20, 1973, p. 25.

<sup>99</sup> 11 *Hearings* 4496.

<sup>1</sup> 11 *Hearings* 4497.

<sup>2</sup> *Ibid.*

guard on the "penthouse" floor where McGovern was staying. McMinoway also wrote in his diary that he had access to all of McGovern's convention operations rooms and that he met "all of the bigtime McGovern staff."<sup>3</sup> McMinoway wrote that he watched television with Senator McGovern on the night of the vote on the challenge to the California delegation, and added, "It is amazing how easy it would be to be right in the midst of all the operations and planning and yet be an enemy."<sup>4</sup>

Many of McMinoway's particular claims about his work at the Democratic convention are contradicted by sworn affidavits and testimony in the public committee record.<sup>5</sup> However, there is no question that McMinoway was able to secure a position as a volunteer security guard of the McGovern floors while working directly for the Committee To Re-Elect the President.<sup>6</sup>

#### *d. Ruby II*

In February 1972, Howard Hunt hired Thomas Gregory, a student at Brigham Young University, to infiltrate the Muskie campaign.<sup>7</sup> Hunt met Gregory through Robert Fletcher, the nephew of Robert Bennett, Hunt's employer at the Mullen Co.<sup>8</sup>

Using the alias "Ed Warren," Hunt called Gregory in Utah and asked him to come to Washington for an expense-paid job interview. About a week later Hunt and Gregory met at the Park Central Hotel in Washington, where Hunt explained that he wanted information from the Muskie campaign, including schedules, internal memorandums, and general observations of the campaign. Gregory was to work as a volunteer for Muskie, report to Hunt once a week, and receive \$175 a week for his services. Gregory accepted the offer.<sup>9</sup>

The next day Gregory began working as a volunteer at the Muskie campaign headquarters, where he was placed in the foreign affairs section under Anthony Lake.<sup>10</sup> His job consisted of photocopying, picking up schedules, and other random chores. Gregory did not photocopy any material for Hunt, but he did type reports based upon documents he read or conversations he overheard.<sup>11</sup>

Hunt and Gregory met weekly in a drugstore at 17th and K Streets NW., in Washington, D.C. During these brief meetings, Gregory gave Hunt typed reports on the week's activities; when Hunt was not available, Gregory gave this material to Robert Fletcher to pass on to Hunt.

All information that Hunt received from Gregory was turned over to Gordon Liddy, including the memorandums that Hunt typed which summarized Gregory's oral reports. Hunt did not retain any copies of this material.<sup>12</sup>

<sup>3</sup> 11 *Hearings* 4717.

<sup>4</sup> *Ibid.*

<sup>5</sup> See, for example, sworn letter of Senator McGovern, 11 *Hearings* 4743; testimony of Frank Mankiewicz, 11 *Hearings* 4816; affidavit of Thomas P. Southwick, 11 *Hearings* 4893; affidavit of Anthony Barash, 12 *Hearings* 5287.

<sup>6</sup> See Barash affidavit, *Ibid.*

<sup>7</sup> 11 *Hearings* 4636.

<sup>8</sup> Gregory interview, Sept. 1, 1973, p. 1.

<sup>9</sup> *Id.* at p. 2.

<sup>10</sup> Berl Bernhard testified that Lake was under electronic surveillance by the administration while he was working for the Muskie campaign. 11 *Hearings* 4665.

<sup>11</sup> Gregory interview, p. 3.

<sup>12</sup> Hunt executive session, June 12, 1973, p. 206.

Gordon Strachan testified that in mid-April 1972, Haldeman told him to contact G. Gordon Liddy to tell him to transfer his "capability" from Muskie to McGovern "with particular interest in discovering what the connection between McGovern and Senator Kennedy was."<sup>13</sup> Strachan also testified that he assumed "finally, there was going to be one unified system" of intelligence gathering under Liddy after this conversation.<sup>14</sup>

At about this same time, Hunt asked Gregory to transfer to the McGovern campaign as a volunteer, which he did. Gregory's responsibilities remained the same as in the Muskie campaign, with one significant addition: he was now to prepare and assist Hunt and Liddy in their plans to place electronic surveillance on McGovern headquarters.<sup>15</sup>

Gregory gave Hunt a floor plan and office description of the McGovern headquarters at Hunt's request. Hunt then introduced Gregory to James McCord, in late April or early May 1972. In a meeting at the Roger Smith Hotel, Washington, D.C., Hunt and McCord told Gregory they were planning to place a "bug" in the McGovern headquarters and would need assistance.<sup>16</sup>

In late May 1972, Gregory took McCord through the McGovern headquarters to familiarize McCord with the physical layout. On a second occasion—May 27, 1972—Gregory again took McCord through the McGovern headquarters; on that visit, McCord unsuccessfully attempted to plant a bug in Frank Mankiewicz's office.<sup>17</sup>

Sometime in late May or early June 1972, Gregory met Gordon Liddy for the first time, during an automobile ride in which Hunt drove Liddy and Gregory around the McGovern headquarters while Liddy told Gregory that he, too, was interested in getting into the McGovern offices.

Hunt, Liddy, McCord, and Gregory met at a Washington hotel to discuss breaking into McGovern headquarters to copy documents and to go over a physical layout of offices and the location of alarm systems.<sup>18</sup>

By early June, Gregory had serious questions about the propriety of his activities which he discussed with his uncle, Robert Bennett. On or about June 15 or 16, 1972, Gregory met with Hunt to tell him that he no longer wished to continue with his work.<sup>18a</sup> After terminating his employment with Hunt, Gregory also contacted the McGovern headquarters to discontinue his volunteer work. Gregory received approximately \$3,400 for his services.

### *e. Colson Suggestions*

#### *Roger Stone*

Bart Porter recalled that Colson wanted to send someone to New Hampshire to make a contribution to the campaign of Rep. Pete McCloskey on behalf of some radical group.<sup>19</sup> Porter testified that he

<sup>13</sup> 6 *Hearings* 2455.

<sup>14</sup> 6 *Hearings* 2470.

<sup>15</sup> 9 *Hearings* 3685.

<sup>16</sup> Gregory interview, Sept. 1, 1973, p. 4.

<sup>17</sup> McCord DNC deposition, Apr. 3, 1973, pp. 155-59.

<sup>18</sup> Gregory interview, Sept. 1, 1973, p. 4.

<sup>18a</sup> *Ibid.*

<sup>19</sup> Porter interview, Aug. 20, 1973, p. 10.

gave Roger Stone \$200 to travel to New Hampshire to make a cash contribution to the McCloskey campaign.<sup>20</sup> Jeb Magruder stated that, on one occasion, Charles Colson suggested that CRP send an individual wearing a "gay lib" button to a McGovern meeting.<sup>21</sup>

Roger Stone recalled that Porter suggested that he travel to New Hampshire and contribute money to McCloskey from the Gay Liberation Front.<sup>22</sup> Stone said he persuaded Porter to make the contribution instead from the Young Socialist Alliance.

A few days later, Porter called Stone back to his office and gave him \$200 in cash for travel and a \$135 contribution. Stone said he converted the \$135 into small bills and coins to convey the image of a donation from many small contributors.

Stone said he went to New Hampshire and delivered the contribution to a McCloskey campaign worker in a storefront. Stone received a receipt for the contribution from the campaign worker showing the source of the contribution as the "Young Socialist Alliance."<sup>23</sup>

After he returned to Washington, Stone said he met with Porter and they drafted an anonymous letter to the Manchester Union Leader and enclosed a photocopy of the receipt.<sup>24</sup> The bogus contribution was staged and subsequently attempted to be leaked to discredit the McCloskey campaign with the New Hampshire voters.<sup>25</sup>

### *Theodore Brill*

Jeb Magruder testified that another incident initiated by Charles Colson was the infiltration of the peace vigil conducted by a group of Quakers in front of the White House. The group of Quakers gathered daily in front of the White House to protest the administration's Vietnam policy. Magruder said Colson told him that there "should be someone finding out what the peace groups in front of the White House were doing."<sup>26</sup> Magruder asked Ken Rietz, head of the Young Voters for the President, to find someone to get Colson the information. Rietz, whose experience in intelligence-gathering began with the placement of "Ruby I,"<sup>27</sup> delegated the assignment to his assistant, George Gorton.

Gorton contacted Roger Stone and asked Stone if he knew a local Young Republican who "needed a summer job."<sup>28</sup> Stone suggested Ted Brill, a former chairman of George Washington University's Young Republican organization. Gorton asked Brill to come to CRP headquarters where he told him that the job consisted of infiltrating and monitoring the Quaker vigil "as a first assignment."<sup>29</sup> Brill's assignment was to determine the future intentions of this group, particularly its plans for the Republican Convention in Miami. Brill periodically visited the vigil, sometimes wearing a McGovern campaign button, and talked with the protestors during the next 6 weeks.<sup>30</sup> He reported verbally to Gorton six or seven times and received about \$675 for his efforts. Brill was terminated the week following the Watergate break-in.

<sup>20</sup> 2 *Hearings* 658.

<sup>21</sup> Magruder interview, Aug. 18, 1973, p. 4.

<sup>22</sup> Stone interview, Aug. 15, 1973, p. 2.

<sup>23</sup> *Id.* at p. 3.

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

<sup>26</sup> Magruder interview, Aug. 18, 1973, pp. 3-4.

<sup>27</sup> See p. 187, *supra*.

<sup>28</sup> Stone interview, Aug. 15, 1973, p. 8.

<sup>29</sup> Brill interview, Sept. 8, 1973, pp. 2-3.

<sup>30</sup> *Ibid.*

Throughout the Gorton-Brill contacts, the possibility of further assignments was discussed, including infiltrating dissident groups at the Republican Convention. Brill testified that, after news of the Watergate break-in, he received no further assignments.<sup>31</sup>

Magruder stated that the information from Brill went back to Ken Rietz and then to Richard Howard in Colson's office.<sup>32</sup>

### *f. Chapman's Friend*

Chapman's Friend was a code name used by two reporters who were hired by Murray Chotiner, a veteran of many Nixon campaigns, to travel with opposition campaigns posing as newspaper reporters, and to monitor the activities of these opposition candidates during the 1972 campaign.<sup>33</sup> Chotiner said the operation was approved by John Mitchell but was handled directly by Chotiner.<sup>34</sup>

The first Chapman's Friend, Seymour K. Freidin, worked from March to November 1971, and from May until the end of August 1972, covering as many candidates as possible.<sup>35</sup> Freidin was not reporting for any newspaper at the time, and received his sole source of income from Chotiner. Chotiner said he told Freidin to observe everything he could while traveling with various campaigns and to report the information back to Chotiner. Freidin identified himself as a working journalist to gain access to the Democratic campaigns. He phoned his reports to Chotiner or Chotiner's secretary. The reports discussed crowd reactions, interviews with staff people, and events that occurred both privately and publicly while on the campaign trail.<sup>36</sup>

The reports were typed in draft form by Chotiner's secretary and edited by Chotiner, whose final versions were sent to Haldeman and Mitchell.<sup>37</sup> Once the Chapman's Friend Report reached Haldeman, it was again copied and sent to members of Haldeman's staff.<sup>38</sup> There was no indication on the Chapman's Friend Report where the information came from or who was responsible for providing it. The reports were simply labeled "Chapman's Friend Reports." Some time in August 1973, Freidin got another assignment as a reporter and terminated his employment with Chotiner.

Chotiner then hired Lucianne C. Goldberg, Mrs. Goldberg traveled with the campaign of Senator McGovern, and also used the code name of Chapman's Friend. Mrs. Goldberg was employed by Chotiner from September 1972 through the election in November.<sup>39</sup>

Both Goldberg and Friedin were paid \$1,000 per week plus expenses with checks drawn from Chotiner's law office account. Chotiner's secretary submitted expense vouchers to FCRP for reimbursement of Chotiner's expenses.<sup>40</sup> On the vouchers the payee's salary was shown only as "reimbursement for survey," and related expenses were shown only as "reimbursement for survey expenses."<sup>41</sup>

The only people who knew the true purpose of the "survey" expenditures, according to Chotiner, were Mitchell, Magruder, and Robert

<sup>31</sup> *Ibid.*

<sup>32</sup> Magruder interview, Aug. 18, 1973, p. 4.

<sup>33</sup> Chotiner interview, Aug. 9, 1973.

<sup>34</sup> Chotiner interview, Aug. 17, 1973.

<sup>35</sup> GAO report, Dec. 18, 1973.

<sup>36</sup> Chotiner interview, Aug. 9, 1973.

<sup>37</sup> *Ibid.*

<sup>38</sup> Higby interview, May 10, 1973.

<sup>39</sup> GAO report, Dec. 18, 1973.

<sup>40</sup> Chotiner interview, Aug. 17, 1973.

<sup>41</sup> GAO report, Dec. 18, 1973.

Odle. Chotiner told Odle the purpose of the payments but refused to reveal the identities of the Chapman's Friends because he did not want the name of the informant disclosed before the election. Odle, however, denied any knowledge of the purpose of the expenditures made by Chotiner until some time in June 1973, when he was informed of the purpose during questioning by the FBI.<sup>42</sup> Odle wrote a memorandum on September 8, 1972, to Nick Bungato, a driver at CRP, which stated:

Once or twice a day you will get a call from Mr. Chotiner's office in the Reeves & Harrison law firm on the fifth floor of 1701, asking you to deliver envelopes directly to Mr. Halde-mans' office on the first floor of the West Wing at the White House.

Please give these requests top priority since the envelopes are very important and time will always be a factor.<sup>43</sup>

#### *g. Young Voters for the President Demonstrations*

The CRP's efforts to counter or neutralize the traditionally Democratic youth vote were coordinated by the Young Voters for the President (YVP). Memorandums indicate that Ken Rietz, head of YVP, was directed by Jeb Magruder to organize demonstrations against the McGovern-Shriver campaign with the advice of Ed Failor, special assistant at CRP.<sup>44</sup>

Rallies organized in the spring of 1972 were initially in support of the President's announcement on May 8, 1972, of the mining of Haiphong Harbor. Rietz organized a pro-Nixon vigil at the White House<sup>45</sup> and organized "pro-RN demonstrations where needed."<sup>46</sup>

After Senator McGovern was nominated at the Democratic convention, Magruder directed Ed Failor to take responsibility for setting up "McGovern-Shriver Confrontations."<sup>47</sup> Ken Rietz reported to Failor weekly on the success of the YVP in organizing demonstrations against the President.<sup>48</sup> Failor himself reported to Magruder about his own efforts to disrupt the McGovern campaign:

\* \* \* I have personally endeavored to create an encounter between Shriver and a busing opponent on the busing issue for today in Las Vegas. Antibusing people will be used in this encounter and no Republicans will be surfaced.<sup>49</sup>

In Rietz's report on the activities of the week of September 22, 1972, he cited daily orchestrated demonstrations by Young Voters for the President at McGovern and Shriver campaign stops. Rietz explained that good media coverage resulted from these efforts:

\* \* \* Reporter Bruce Morton concluded that it was not a very good stop [for McGovern]. We are told an AP wire story reported the presence of young Nixon supporters.<sup>50</sup>

Rietz also reported that the demonstrations "upset" candidate McGovern in Milwaukee. Finally, these demonstrations apparently

<sup>42</sup> *Ibid.*

<sup>43</sup> See exhibit 36, p. 353. Also, there were apparently discussions in the McGovern campaign about sending a similar individual on the Agnew campaign plane. However, these plans were vetoed by Senator McGovern.

<sup>44</sup> See exhibit 37, p. 354.

<sup>45</sup> See exhibit 21, p. 305; memo from Liddy to Mitchell, May 15, 1972.

<sup>46</sup> See exhibit 20, p. 301; memo from Odle to Mitchell, May 9, 1972.

<sup>47</sup> See exhibit 37, p. 354.

<sup>48</sup> An example is attached at exhibit 37; other examples are found in committee files.

<sup>49</sup> See exhibit 37, p. 354.

<sup>50</sup> *Ibid.*

forced cancellation of some of McGovern's planned activities. Failor wrote to Magruder:

We have learned the McGovern organization and/or the Secret Service has reacted to our activities. The San Geronero Festival in Greenwich Village, N.Y., Saturday night was originally planned as a walking tour of a few blocks by McGovern. However, as a result of the events in Flushing, N.Y., on Thursday, September 21 [organized by YVP], the street walk was canceled and McGovern spoke in an area that was barricaded off.<sup>51</sup>

#### *h. Use of Advance People*

On July 28, 1971, Pat Buchanan wrote a memorandum to Attorney General Mitchell, which suggested the following activity for the 1972 campaign:

*Special Projects.* We would like to utilize Ron Walker's resources where possible to handle some close-in operations, pickets and the like, when candidates visit various cities. The candidate normally brings with him his own media, he attracts local media, and we would like to be able to "piggy-back" on that media—with our own operations, anticandidate. This requires support activities from some source. Ron has an operation in place, and they will need approval—either general or specific—for these covert operations.<sup>52</sup>

Ron Walker headed the White House advancemen, who were used to set up the logistics for Presidential visits. Thus, Buchanan suggested that they be used for "anticandidate," "covert operations" against the Democratic candidates. Buchanan testified that this idea was rejected.<sup>53</sup>

However, Ron Walker testified about other questionable tactics sometimes used by advancemen to counteract protesting signs at Presidential appearances. Walker said that groups with pro-Nixon signs on sheets would be organized by advancemen prior to the appearance. At the first sign of any protest, the group would be moved to a curbside to place their signs between the President's motorcade and the protesting observers.<sup>54</sup>

Walker also testified that it was the advance operation's policy to insure that "undesirables" did not show up at Presidential rallies. One technique used to keep out "undesirables" was the "fake ticket routine," in which the advanceman would ask for the ticket of an individual and then declare it a "fake" and escort the individual from the rally.<sup>55</sup> Walker said this technique was used in Charlotte, N.C., on Billy Graham Day to cope with potential protesters who were planning to show up for the President's appearance.

Walker also stated that there were other recommendations for coping with demonstrators. One idea that was discussed was that the advance operation should have ready a pickup truck with cowboys in it, and

<sup>51</sup> *Ibid.*

<sup>52</sup> 10 *Hearings* 4190.

<sup>53</sup> 10 *Hearings* 3931.

<sup>54</sup> Walker interview, Aug. 15, 1973, p. 5.

<sup>55</sup> *Id.* at p. 6.

if there were any trouble at an appearance, they would release the cowboys and "let things happen."<sup>56</sup> Walker said he recalled Haldeman discussing such tactics but that such tactics were never implemented.<sup>57</sup>

### *i. Vote Siphoning Schemes*

Vote siphoning is essentially a direct interference by one political party or campaign in the affairs of another party or campaign for the purpose of weakening or eliminating an opposition candidate.

In 1972, the Committee To Re-Elect the President (CRP) secretly financed efforts to take votes away from Senator Muskie in the New Hampshire and Illinois primaries, and secretly supported an effort in California to drive the registration of the American Independent Party (AIP) below the required minimum so that AIP would not qualify for a spot on the ballot in the general election.

*The New Hampshire Primary:* The effort to take votes away from Senator Muskie in New Hampshire was initiated by Charles Colson, according to Magruder, who told him that the project had been approved by both Haldeman and the President.<sup>58</sup> Magruder cleared the project (at a cost of \$8,000–\$10,000) with John Mitchell and also spoke to Haldeman about it.<sup>59</sup> Colson, or someone in his office, according to Magruder, drafted a letter supporting a write-in campaign for Senator Kennedy, whose name was not on the ballot. The draft was taken by someone in Colson's office to Robin Ficker, a Democratic politician in Montgomery County, Md. who had been running a Kennedy-for-President headquarters since July 1971.<sup>60</sup>

Ficker said that in February 1972 someone who identified himself in a telephone conversation as Mike Abramson, asked him to sign a letter calling for a Kennedy write-in campaign. The letter was brought to Ficker's home by a "Bill Robinson," who said he was with a law firm in Washington, D.C.<sup>61</sup>

Ficker signed the letter because he agreed with its contents. He was later told that between 150,000 and 180,000 copies of the letter were mailed to New Hampshire residents whose names appeared on the CRP mailing list of Democrats.<sup>62</sup>

Ficker also went to New Hampshire, shortly before the primary, and campaigned for Kennedy for 4 or 5 days. At Abramson's suggestion, he placed one advertisement in the Manchester Union Leader, credited to the United Democrats for Kennedy, which he signed and paid for himself.<sup>63</sup>

Ficker never saw Mike Abramson and never knew where he could be reached. Ficker believed that he worked with Kennedy aides in coordinating the Kennedy write-in campaign in New Hampshire.<sup>64</sup>

The write-in campaign for Senator Kennedy was totally financed by the Committee To Re-Elect the President, yet that information was

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*

<sup>58</sup> Jeb Magruder interviews, Aug. 18, 1973, p. 3; and Oct. 1, 1973, p. 11.

<sup>59</sup> *Id.* at p. 11.

<sup>60</sup> Magruder said the individual who took the letter to Ficker worked in Colson's office, but this person has not been identified.

<sup>61</sup> Robin Ficker interview, p. 1.

<sup>62</sup> Magruder interview, Oct. 1, 1973. For a copy of the letter, see 10 *Hearings* 4266.

<sup>63</sup> Ficker interview, p. 2. The write-in effort was not successful. Senator Kennedy received only 735 (0.9 percent) of the Democratic votes in the primary. Congressional Quarterly, Mar. 11, 1972, p. 539.

<sup>64</sup> Ficker interview, p. 2.



disclosed neither to Mr. Ficker or to the public during the campaign.

Patrick Buchanan testified that, although not acquainted with the Ficker letter, he knew about Ficker's write-in campaign.<sup>65</sup> Asked about the propriety of the letter, Buchanan responded that it was "a borderline case," with regard to unethical campaign practices.<sup>66</sup>

Buchanan had advocated a form of vote siphoning in an October 5, 1971, memorandum to Mitchell and Haldeman:

(3) *Fourth party candidacies.*—Top level consideration should be given to ways and means to promote, assist and fund a fourth party candidacy to the left Democrats and/or the black Democrats. There is nothing that can so advance the President's chances for reelection—not a trip to China, not 4½-percent employment—as a realistic black Presidential campaign.<sup>67</sup>

The absence of a requirement that the true sponsors of such efforts to aid opposition party candidates be disclosed may mislead the public into thinking that there is more support for such candidates than in fact, there is.

*The Illinois Primary:* The Committee To Re-Elect the President apparently also directed some money to the Illinois primary campaign of Senator Eugene McCarthy, hoping that McCarthy would take votes away from the other candidate on the ballot, Senator Muskie.<sup>68</sup> Once again, financial support of an opponent of Senator Muskie was not disclosed to the public.

*American Independent Party Effort in California:* The American Independent Party (AIP) was founded by supporters of George Wallace's Presidential aspirations. The attempted vote siphoning aimed at AIP was limited in scope and unsuccessful, but it nonetheless provides an insight into the tactics supported by CRP to assure President Nixon's re-election.

Under California law,<sup>69</sup> a political party, as of January 1 of an election year, must have registered voters exceeding one-fifteenth of 1 percent of the total voter registration in the State to qualify for the ballot in a primary election. The plan was to convince enough of the approximately 140,000 registered AIP voters to re-register in another party before January 1, 1972, to drop AIP registration below the one-fifteenth of 1 percent figure.

The re-registration plan was conceived in early 1971 by Robert J. Walters, a California businessman and sometime Wallace supporter who had become disenchanted with the AIP after the 1968 Presidential election.<sup>70</sup> Walters was upset because the AIP was drawing votes away from conservative candidates of the two major parties.

It was Walters' understanding that voters who had changed addresses since the 1970 election without notifying county authorities could be purged from the list of registered voters if proof of the address changes were presented to the officials. Walters planned to

<sup>65</sup> 10 *Hearings* 3968.

<sup>66</sup> *Ibid.*

<sup>67</sup> 10 *Hearings* 4201 (excerpted from exhibit No. 179, which begins at 10 *Hearings* 4197).

<sup>68</sup> Gordon Strachan interview, Aug. 13, 1973, p. 8, and John Mitchell interview, June 27, 1973.

<sup>69</sup> California Election Code, sec. 6430.

<sup>70</sup> Walters interview, Aug. 31, 1973.

send a mass mailing to registered AIP voters, receive from the Post Office those letters undeliverable because of address changes, and then forward them to county election officials for purging. Walters also planned to enlist a large group of people who would personally contact AIP voters and urge them to re-register. Walters mailed re-registration literature under the heading of the "Committee Against Forced Busing" urging AIP members to fight against busing by joining one of the major parties.

In the summer of 1971 Walters began writing letters to numerous conservative groups asking for support. Walters also wrote a letter to CRP in Washington. In late September 1971, an unidentified man called Walters from New York City, said he worked for a group doing public relations work for President Nixon's re-election effort, and told Walters that he would be contacted by someone else regarding the reregistration drive.

About mid-September, according to Walters, a man called him from a Los Angeles hotel and identified himself as Mr. Magruder from "out-of-town." He said that he and Jeb Magruder met and discussed Walters' reregistration plan. Magruder remembered meeting with Walters and discussing the plan.<sup>71</sup>

While Walters waited for a followup call to the meeting with Magruder, an initial mailing went out, largely funded by Willis Carto of the Liberty Lobby.<sup>72</sup> About October 1 Walters hired a friend, Glenn Parker, to assist in the drive.

In the meantime, Magruder received John Mitchell's approval for spending \$10,000<sup>73</sup> and discussed the plan with Lyn Nofziger,<sup>74</sup> a Californian with many years of political experience who was then at the RNC. Nofziger called Jack Lindsey, a Los Angeles businessman whom he knew. Nofziger mentioned Walters' plan to Lindsey and Lindsey agreed to monitor the project and pay the expenses.<sup>75</sup> Nofziger then arranged to send Lindsey \$10,000 in cash that he obtained from Hugh Sloan.<sup>76</sup>

Lindsey called Walters to arrange a meeting to discuss funding without indicating the source of the money. Walters briefed Lindsey on the results of the mass mailing and door-to-door visits during several occasions in the late fall of 1971. Lindsey forwarded Walters' written reports on the drive to Nofziger,<sup>77</sup> who said he mailed them to Magruder without reading them.<sup>78</sup> Lindsey paid Walters' expenses plus \$150 per week salary. After the reregistration drive folded in late 1971, Lindsey still held \$1,000 of the \$10,000, which he said he donated in his name to a Los Angeles fundraising dinner for President Nixon.

The reregistration effort itself never got off the ground despite the \$10,000 CRP contribution. Many county officials refused to "purge" voters who had moved.<sup>79</sup> In addition, the personal canvassing effort faltered from the beginning and ended up involving members of the American Nazi Party.

<sup>71</sup> Magruder interview, Oct. 1, 1973.

<sup>72</sup> Walters interview, Aug. 31, 1973.

<sup>73</sup> Magruder interviews, Aug. 18, and Oct. 1, 1973.

<sup>74</sup> Nofziger interview, Aug. 29, 1973. Unless otherwise noted, the details of the Nofziger-Magruder discussions that follow are from Nofziger's recollection. Magruder had little recollection of these discussions.

<sup>75</sup> Nofziger interview; Lindsey interview.

<sup>76</sup> Nofziger interview; Craig Mauer interview, Aug. 14, 1973; see also 2 *Hearings* 541.

<sup>77</sup> Lindsey interview; Nofziger interview.

<sup>78</sup> Nofziger interview.

<sup>79</sup> See, e.g., exhibit 38, p. 358.

Walters was never able to recruit volunteers or paid canvassers in numbers sufficient to assure more than a minimal canvassing effort. His assistant, Glenn Parker, knew that Joseph Tomassi, then head of the regional Nazi Party, needed money for mortgage payments on the party headquarters.<sup>80</sup> Parker hired Tomassi and some of his associates who contacted AIP members on the reregistration drive without identifying themselves as Nazi Party members. Documents show that Tomassi received some \$1,200 of money originally from CRP for his efforts. The reregistration drive was a complete failure, according to all participants.

### *j. Unsigned Literature*

In addition to the incidents cited above of unsigned literature printed and distributed by CRP agents prior to the break-in at the DNC,<sup>81</sup> there was a suggestion made by the White House after the break-in that unidentified literature should be prepared and distributed by the CRP. Richard Howard, Charles Colson's administrative assistant, wrote in a memo to Ed Failer on June 28, 1972:

An idea that has come from very high sources is that a booklet or small brochure be prepared (with no identification as to who prepared it) on the "McGovern Platform." All the issues should be listed such as labor, national defense, amnesty, pot, poverty, abortion, etc. Under each issue should be the worst possible quote, statement, or reported position by McGovern regarding the issue.

Some of his bland or noncontroversial issues should also be included. After the booklet is completed, a large distribution should be made to opinion leaders.<sup>82</sup>

There is presently no evidence before the committee to indicate whether this suggestion was implemented.

### 3. IMPACT ON DEMOCRATIC CAMPAIGNS

It is difficult, if not impossible, to assess accurately the impact of the activities described above on the 1972 Presidential campaign.

Donald Segretti testified that one of the tactical objectives outlined for him by Dwight Chapin was "to foster a split between the Democratic hopefuls."<sup>83</sup> In addition, much of the other disruptive activity described above appears to have been intended to "divide the Democrats," in the words of Pat Buchanan.<sup>84</sup> Both Berl Bernhard, Senator Muskie's campaign manager, and Frank Mankiewicz, Senator McGovern's campaign director, testified that the activities described above were successful in dividing the Democratic candidates among themselves.

Bernhard testified that the "dirty tricks" emanating from the White House and CRP "generated suspicion and animosity between the staffs of the Democratic contenders."<sup>85</sup> Mankiewicz testified that the objective of the "dirty tricks" was:

<sup>80</sup> Parker interview, Aug. 28, 1973.

<sup>81</sup> See pp. 168-73 *supra*.

<sup>82</sup> See exhibit 39, p. 360.

<sup>83</sup> 10 *Hearings* 3980.

<sup>84</sup> 10 *Hearings* 4197.

<sup>85</sup> 11 *Hearings* 4667.

\* \* \* to create within the Democratic Party such a strong sense of resentment among the candidates and their followers as to make unity of the party impossible once a nominee was selected. At that, the efforts seems to have been most successful.<sup>86</sup>

Though no witness could testify that the outcome of the general election would have been any different if the "dirty tricks" discussed above had not occurred, these activities helped to leave the Democratic Party bitterly divided at the close of the Presidential primaries.<sup>87</sup> Frank Mankiewicz noted that "what was created by the sabotage effort was an unparalleled atmosphere of rancor and discord within the Democratic Party."<sup>88</sup>

Senator Muskie was widely acknowledged throughout 1971 as the Democratic frontrunner and most formidable political opponent for President Nixon. As Patrick Buchanan wrote Attorney General Mitchell on July 28, 1971:

The clear and present danger is that Senator Muskie, the favorite in the early primaries, will promenade through the primaries, come into the convention with a clear majority and enormous momentum for November. That would be bad news for us.<sup>89</sup>

As a result of this concern, almost all of the activities described above—Segretti and agents, Ruby I, Ruby II, Sedan Chair, Sedan Chair II, and others—initially focused their attention on Senator Muskie. After the early primaries, Senator Muskie's campaign declined, and he withdrew from active campaigning following the Pennsylvania primary. On April 12, 1972, Buchanan and Khachigian wrote to Haldeman and Mitchell:

Our primary objective, to prevent Senator Muskie from sweeping the early primaries, locking up the convention in April, and uniting the Democratic Party behind him for the fall, has been achieved.<sup>90</sup>

Berl Bernhard testified that Senator Muskie's decline was attributable to a lack of adequate financing, a proliferation of Democratic primaries, the polarization of the Democratic Party, and the problems of a "centrist" candidate.<sup>91</sup> However, Bernhard also testified that the "dirty tricks"

... took a toll in the form of diverting our resources, changing our schedules, altering our political approaches, and being thrown on the defensive.<sup>92</sup>

Finally, both Mankiewicz and Bernhard testified that the activities described above were not "politics as usual" for either Democrats or Republicans.<sup>93</sup>

Apart from the activities noted above that were directly linked to President Nixon's reelection campaign, the campaigns of Democratic

<sup>86</sup> 11 *Hearings* 4603.

<sup>87</sup> See, e.g., testimony of Frank Mankiewicz at 11 *Hearings* 4603, where he states that "any reuniting of factions—normally the course in a Democratic campaign after the primaries—became far more difficult."

<sup>88</sup> 11 *Hearings* 4604.

<sup>89</sup> 10 *Hearings* 4186.

<sup>90</sup> 10 *Hearings* 4226.

<sup>91</sup> 11 *Hearings* 4652.

<sup>92</sup> 11 *Hearings* 4667.

<sup>93</sup> 11 *Hearings* 4603; 4655.

contenders encountered many other instances of disruptive or deceptive behavior. For example, the well-known "Canuck Letter" was published by the Manchester Union Leader on February 24, 1972, less than 2 weeks before the New Hampshire primary.<sup>94</sup> The letter, allegedly from a "Paul Morrison" of Deerfield Beach, Fla., claimed that Senator Muskie had laughed at an aide's use of the racist slur "Canuck."<sup>95</sup> Senator Muskie issued an absolute denial of the charges on a flatbed truck outside the offices of the Union Leader and denounced its editor, William Loeb. The committee was unable to discover the individuals responsible for this "dirty trick."<sup>96</sup> Senator Muskie also responded emotionally to an article about his wife reprinted in the Union Leader, which was subsequently reported by the media as the Muskie "crying" incident.<sup>97</sup>

The other instances or allegations of improper activities directed at Democratic candidates that were not linked to any other Presidential campaign are contained in the committee files and are not detailed in this report.<sup>98</sup>

### C. IMPROPER ACTIVITIES DIRECTED AGAINST PRESIDENT NIXON'S RE-ELECTION CAMPAIGN

Testimony before the committee indicates that the 1972 re-election campaign of President Nixon was subjected to some improper, unethical or illegal activities perpetrated by persons individually or in combination with others. Some of these activities took the form of violent acts of destruction against local campaign offices. The select committee condemns all acts of violence by individuals against the campaign of any political candidate. Other improper activities directed at President Nixon's campaign included demonstrations which may have prevented citizens from exercising their rights to assemble freely, and a few examples of scurrilous literature directed against President Nixon.

It should also be noted that except for a few isolated examples noted below, there is presently no evidence indicating that these improper activities were directly or indirectly related to the campaign of any Democratic candidate.

#### 1. DEMONSTRATIONS

Affidavits in the committee record describe in detail some of the violent demonstrations directed against the Nixon re-election campaign.<sup>99</sup> The most significant of these demonstrations are described below.

In Boston, a demonstration at an appearance of Mrs. Nixon resulted in some personal injuries to bystanders and extensive property damage (e.g., smashing of windshields, the slashing of tires, and the burning of an automobile.) The "Nixon campaign car" suffered much damage and "(expletive deleted) Nixon" was scratched in the paint all over the car.<sup>1</sup>

<sup>94</sup> 10 *Hearings* 4265.

<sup>95</sup> The letter actually said "Cannocks."

<sup>96</sup> Ken Clawson, named in some accounts as the writer of the letter, denied having anything to do with the letter in an interview (Aug. 14, 1973).

<sup>97</sup> See, e.g., New York Times, Feb. 27, 1972, p. 54; and Time, Mar. 13, 1972, p. 20.

<sup>98</sup> See, e.g., letters in committee files from John McEvoy and Robert Strauss and interviews with former McGovern campaign workers.

<sup>99</sup> 12 *Hearings* 5007-5018.

<sup>1</sup> 12 *Hearings* 5110-5115; 12 *Hearings* 5116-5118; 12 *Hearings* 4996-5007.

In Tulsa, Okla., demonstrators chanted slogans during a campaign speech by President Nixon in an attempt to disrupt the President's rally.<sup>2</sup> Testimony from the Tulsa CRP youth coordinator alleged that the demonstration had been organized by the local McGovern campaign college co-ordinator.<sup>3</sup>

The committee also received testimony that demonstrators in Fresno, Calif., some of whom carried McGovern campaign signs, shouted down potential Republican speakers with obscenities and abusive language.<sup>4</sup>

In Tampa, Fla., testimony indicates that a group of demonstrators shouted in unison and heckled a speech by then Vice President Agnew.<sup>5</sup> In Chicago, Ill., Agnew's appearance was "continually disturbed by large groups of unruly demonstrators."<sup>6</sup>

An appearance by President Nixon in Atlanta, Ga., provoked a demonstration by about 75 individuals. The demonstrators apparently engaged in shouting obscenities and their "pushing and shoving" caused some observers to be concerned "for the President's safety."<sup>7</sup>

In Maine, the campaign appearance of then Vice President Agnew was met by a large crowd of demonstrators protesting against the war. There was testimony before the committee that some individuals threw cans and plastic bags filled with tomato juice at Republican delegates and at Vice President Agnew.<sup>8</sup>

In New York City, the Nixon reelection campaign offices were harassed by demonstrators who dumped cockroaches in the offices and threw paint on volunteer Nixon workers at a storefront.<sup>9</sup> In Columbus, Ohio, an appearance by then Vice President Agnew was met by a large demonstration in which demonstrators threw rocks and other objects at both guests and police, one of which struck Agnew's car's window "directly behind where the Vice President was seated."<sup>10</sup>

The committee also received testimony indicating that high level McGovern campaign personnel participated in the organization of a demonstration at the campaign appearance of President Nixon at the Century Plaza Hotel in Los Angeles on September 27, 1972.

Fred Taugher, the southern California campaign coordinator for McGovern, testified that at a meeting between himself, Rick Stearns, the McGovern western campaign coordinator, and two other McGovern workers, it was decided that the McGovern phone banks in the Los Angeles headquarters "would be available to the sponsors of the demonstration" in order to call individuals "to encourage them to attend the demonstration."<sup>11</sup> Stearns testified that he was aware of planning for the demonstration and that he had no objections to McGovern staffers attending the demonstration, but that he recalled no requests to the campaign to provide any assistance for the demonstration.<sup>12</sup>

Taugher testified that the McGovern phone banks were used on two successive nights by demonstration organizers, and that leaflets announcing the demonstration were distributed in about half of the

<sup>2</sup> 12 *Hearings* 5165-72.

<sup>3</sup> 12 *Hearings* 5171-72.

<sup>4</sup> 12 *Hearings* 5051-5054, 4947-4963.

<sup>5</sup> 12 *Hearings* 5074.

<sup>6</sup> 12 *Hearings* 5082-83.

<sup>7</sup> 12 *Hearings* 5076-81.

<sup>8</sup> 12 *Hearings* 5084-5094.

<sup>9</sup> 12 *Hearings* 5151-5152.

<sup>10</sup> 12 *Hearings* 5153-5158.

<sup>11</sup> 11 *Hearings* 4539.

<sup>12</sup> 11 *Hearings* 4571.

McGovern storefronts in the Los Angeles area.<sup>13</sup> Use of the phone banks was terminated, Taugher testified, because they were needed to organize a rally for Senator McGovern the following week.

In response to inquiries from the press about the use of the phone banks, McGovern press spokesman Fred Epstein told reporters, "I don't know who allowed them to use the phones or who told them to stop \* \* \* It probably was some overzealous person in the campaign."<sup>14</sup> Taugher testified that the press statement left "the wrong impression."<sup>15</sup>

About 3,000 individuals demonstrated against President Nixon at Century Plaza,<sup>16</sup> but the demonstration was peaceful by all accounts.<sup>17</sup> The use of the resources of a political campaign, however, to organize a large demonstration against an opponent raises questions of propriety.

H. R. Haldeman, John Ehrlichman and Rob Odle all testified that the frequency and intensity of demonstrations in the 1972 campaign were a cause of major concern both within the White House and within the Committee To Re-Elect the President.<sup>18</sup> Finally, the committee received both testimony and extensive documentation describing some of the violent demonstrations which occurred in Miami Beach, Fla., during the Republican Convention week, August 19 to 24, 1972. Congressman Tim Lee Carter testified before the committee and outlined some instances of physical violence to which he and his wife were subjected while attending the Republican Convention.<sup>19</sup> Congressman Carter also testified about a number of personal injuries and property damage that he observed while attending the Republican National Convention.<sup>20</sup>

The committee also received in evidence the "Chronological Log of Events" prepared by the Miami Beach Police Department, which recites the number of incidents of violence which were perpetrated on delegates and their families by demonstrators in Miami.<sup>21</sup> These incidents included, for example, the pelting of delegates with eggs and rocks, slashing tires, attempts to set buses filled with delegates on fire, stuffing potatoes in exhaust pipes, smashing windows, throwing ignited papier mache bombs into the convention compound, tear gas grenades thrown by demonstrators, shots fired at police officers, and demonstrators marching on Convention Hall attired with helmets, gas masks, and night sticks.<sup>22</sup> As a result of these tactics, more than 1,200 arrests were made in 2 days during the convention week.<sup>23</sup>

A delegate from South Carolina described in a letter to the committee that the entire South Carolina delegation to the convention had stones thrown at them as they boarded their bus to proceed to the Miami Convention Hall on the last evening of the convention.<sup>24</sup> In addition, the South Carolina delegate described the slashing of the

<sup>13</sup> 11 *Hearings* 4540-41.

<sup>14</sup> 11 *Hearings* 4549.

<sup>15</sup> 11 *Hearings* 4550.

<sup>16</sup> 11 *Hearings* 4558.

<sup>17</sup> 11 *Hearings* 4559. Pat Buchanan, however, testified that this demonstration was a "near violent [demonstration] denying the President of the United States a right to speak." (10 *Hearings* 3942) Lieutenant Hickman testified that the demonstration did not deny the President the right to speak. (11 *Hearings* 4560.)

<sup>18</sup> See 6 *Hearings* 2502; 7 *Hearings* 2874-2876; 12 *Hearings* 5188-5192.

<sup>19</sup> 12 *Hearings* 4986-4996.

<sup>20</sup> *Ibid.*

<sup>21</sup> 12 *Hearings* 5219-5257.

<sup>22</sup> *Ibid.*

<sup>23</sup> For full exposition of the events, see 12 *Hearings* 5196-5264.

<sup>24</sup> 12 *Hearings* 5262.

bus' tires, the destruction of the gas lines of the bus by the demonstrators, and the physical abuse to which the delegates were subjected:

\* \* \* we were pushed and shoved, struck by eggs, stones, and fists and spit on, we found ourselves separated into twos and threes. They tore clothing and screamed obscenities. The slogans many of them chanted called for either ending the war in Vietnam or dumping President Nixon. In the confusion my wife and I were temporarily separated. I finally was able to rescue her from a doorway where she was trapped by the mob. Her dress had been torn and she was hysterical \* \* \* 25

From the evidence in the committee's records, it appears that most of the demonstrators in Miami Beach during the Republican Convention were part of demonstrations against the war.<sup>26</sup> Any act of violence directed at participants in the political process has no place in the American political system.

It should be noted here that the Select Committee received a letter on June 8, 1973, from John H. Davitt, Chief of the Internal Security Section of the Criminal Division of the Department of Justice which stated that neither the ISD files nor the Federal Bureau of Investigation had any information which linked any Democratic candidate in the 1972 campaign to any criminal acts or any conspiracies to commit unlawful or disruptive acts.<sup>27</sup>

## 2. CAMPAIGN VIOLENCE AND HARASSMENT

Another problem in the 1972 Presidential campaign was the violence directed against CRP and Republican campaign offices in various cities. In Phoenix, Ariz., the CRP headquarters building was gutted by fire resulting from arsonists splashing some 5 gallons of gasoline throughout the headquarters.<sup>28</sup>

The affidavit of George Willeford, Jr., described a fire set in the State Republican headquarters offices in Austin, Tex. in the spring of 1972.<sup>29</sup> Other affidavits describe attempted arson against CRP headquarters in Albuquerque and New Hampshire.<sup>30</sup> Further affidavits describe gunshots being fired into campaign headquarters of the CRP in Massachusetts and in Pennsylvania.<sup>31</sup> In Springfield, Mass., the room into which the shot was fired was full of people but no one was injured.<sup>32</sup>

Other acts of destruction directed against the 1972 campaign to reelect President Nixon included the smashing of plate glass windows,<sup>33</sup> the spraying of vulgar anti-Nixon signs on buildings and windows<sup>34</sup> and alleged break-ins to the campaign headquarters where campaign property was destroyed.<sup>35</sup>

<sup>25</sup> 12 *Hearings* 5263.

<sup>26</sup> 12 *Hearings* 5198.

<sup>27</sup> 8 *Hearings* 3321.

<sup>28</sup> 12 *Hearings* 5034-5047.

<sup>29</sup> 12 *Hearings* 5176.

<sup>30</sup> See 12 *Hearings* 5143-5146; 5127-5142.

<sup>31</sup> See 12 *Hearings* 5116-5119; 5173.

<sup>32</sup> 12 *Hearings* 5117.

<sup>33</sup> 12 *Hearings* 5097-5101.

<sup>34</sup> 12 *Hearings* 5147-50.

<sup>35</sup> See, e.g., affidavit of Chester Oman stating that motor oil was poured on Nixon campaign literature, 12 *Hearings* 5125-26; affidavit of Ella Jacques stating that Dayton CRP headquarters were broken into and McGovern signs printed on the walls, 12 *Hearings* 5163; and affidavit of Toni Greenwood stating that the Washington, D.C., Democrats for Nixon headquarters was occupied by 75-100 demonstrators and campaign literature destroyed and pro-McGovern literature left in its place, 12 *Hearings* 5185-87.



## 3. CAMPAIGN LITERATURE

President Nixon's reelection campaign was also subjected to some improper and distasteful literature. For example, pamphlets and brochures appeared in the campaign which ranged from cartoons depicting President Nixon with fangs dropping bombs on people to posters with crude sexual puns.<sup>36</sup> Other examples of literature directed against the President's campaign efforts, usually by antiwar groups, may be found in the committee record.<sup>37</sup>

A piece of inappropriate campaign literature which bears mention was the unimaginative piece distributed in California which said "Nixon is treyf," and which went on to state: "Thanks to modern technology Nixon brings the ovens to the people rather than the people to the ovens."<sup>38</sup>

In addition, Michael Heller testified that he observed this pamphlet both in the McGovern Fairfax headquarters in Los Angeles in September 1972, as well as being distributed in the streets by McGovern campaign workers.<sup>39</sup>

Paul Brindze, head of three West Side Los Angeles offices for McGovern, testified that he directed a young volunteer in the McGovern offices to mimeograph off 3,000 copies of the pamphlet "Nixon is Treyf."<sup>40</sup> Brindze also testified that at the suggestion of the southern California McGovern coordinator, the McGovern campaign decided to place the blame for the distribution of this pamphlet on the 16-year-volunteer who had merely mimeographed the pamphlet at the direction of campaign superiors. As a result, the 16-year-old volunteer was terminated, and Paul Brindze remained in his capacity as the director of one of the McGovern campaign local Los Angeles offices.<sup>41</sup>

## III. RECOMMENDATIONS

The recommendations which follow are an effort by the Select Committee to help prevent the recurrence of improper, unethical, and illegal activities that took place in the 1972 campaign. Of central importance to these recommendations is the creation of an independent Federal Elections Commission, similar to the proposal in S. 3044 already passed by the Senate, with full enforcement and subpoena powers to monitor and enforce the election laws. This proposal is discussed more fully elsewhere in this report.<sup>42</sup>

**1. The committee recommends that Congress enact criminal legislation to prohibit anyone from obtaining employment, voluntary or paid, in a campaign of an individual seeking nomination or election to any Federal office by false pretenses, misrepresentations, or other fraudulent means for the purpose of interfering with, spying on, or obstructing any campaign activities of such candidate. Furthermore, such legislation should make it unlawful for anyone to direct, instruct, or pay anyone to join any such campaign by such means or for such purposes as are outlined above.**

<sup>36</sup> 12 Hearings 5081, 5198, 5130, 5217.

<sup>37</sup> 12 Hearings 5022, 5024, 5081, 5216-17.

<sup>38</sup> 12 Hearings 5022-24. The flyer also promoted an upcoming demonstration against the President. Note that "treif" is a Yiddish term meaning "not kosher." The area in Los Angeles where the pamphlet was distributed was primarily Jewish.

<sup>39</sup> 12 Hearings 4967.

<sup>40</sup> 12 Hearings 4977.

<sup>41</sup> 12 Hearings 4981-85.

<sup>42</sup> See Chapter 4 below.

*Discussion.* New legislation is needed to prevent the infiltration of Presidential and Federal campaigns. The activities of Donald Segretti, Robert Benz, Michael McMinoway, Elmer Wyatt, Tom Gregory, and others are abundant documentation of the numerous infiltration efforts in the 1972 campaign.

The dangers of this infiltration range from the confusion and suspicion resulting from leaked information to the opponents or newspapers to more systematic disruption and sabotage of the opposition campaign.

Infiltration occurred in the 1972 campaign which ranged from placing a false name on a mailing list of the Democratic National Party to the systematic infiltration of Michael McMinoway in the various Democratic primary campaigns.

It is essential for a campaign or organization to have free and open discussion, without fear that one of the conversants is a spy from the opposition. Every campaign requires some maintenance of confidentiality: sensitive matters must be examined; personalities discussed; and confidential policy must be deliberated. One of the purposes of the legislation outlined above is to free political campaigns from infiltrators who report systematically back to the opposition campaign.

The proposed legislation would not ban a "Chapman's friend" or a reporting arrangement where the reporter does not actually join another campaign. While this practice may not be ethically pure, this legislation is aimed at ridding campaigns of the unhealthy deception of actual infiltrators. Where the individual does not actually work himself into the confidences of an alien campaign, the potential harm to the campaign is diminished even though deception still exists.

**2. The committee recommends that Congress enact legislation to make it unlawful to request or knowingly to disburse or make available campaign funds for the purpose of promoting or financing violations of Federal election laws.**

This recommendation is an effort to deter individuals with control over campaign funds from blindly and automatically providing money for campaign activities whenever they are so instructed. For example, Herb Kalmbach, the custodian of leftover 1968 campaign funds, funded Tony Ulasewicz's activities for nearly 3 years as well as the travels and illegal activities of Donald Segretti. A statute such as the one outlined above would force people with control over campaign funds to inquire more fully about the expenditures that were requested, since they would be held criminally liable for funds spent for illegal purposes.

In addition, this recommendation seeks to deter individuals working in political campaigns from requesting campaign funds in order to promote illegal activities during Federal campaigns. Such a statute as is recommended above would be an effective deterrent to many activities like those occurring in the 1972 campaign.

**3. The committee recommends that Congress enact new legislation which prohibits the theft, unauthorized copying, or the taking by false pretenses of campaign materials, documents, or papers not available for public dissemination belonging to or in the custody of a candidate for Federal office or his aides.**

*Discussion.* The evidence of Donald Segretti, Robert Benz, Doug Kelly, Jack Buckley, Elmer Wyatt, Michael McMinoway, Tom

Gregory, and Howard Hunt clearly establish the need for a larceny statute which can be used to prevent such unauthorized takings in a Federal election. Present "larceny by false pretense" statutes in most States require the object that is taken to be "a thing of value." Since papers are generally not thought to have value in the sense that the term is used in the existing statute, a new Federal election larceny statute is necessary to prosecute such violations.

**4. The committee recommends that Congress should make it unlawful for any individual to fraudulently misrepresent by telephone or in person that he is representing a candidate for Federal office for the purpose of interfering with the election.**

Present Federal criminal legislation, 18 U.S.C. § 612, requires that campaign literature disclose the names of individuals and organizations responsible for its publication and distribution.<sup>43</sup> However, there were numerous cases of false, deceptive, and misleading literature published and distributed in the 1972 campaign by fraudulent or non-existent sponsors. The existence of this literature in the 1972 campaign demonstrates the need for better publication and more rigorous enforcement of the existing Federal law in this area. The proposed new independent Federal Elections Commission would be the appropriate institution to accomplish these objectives of better publicity and more rigorous enforcement.

It is important to eliminate this form of deception from Federal campaigns since voters have the right to know whether the pamphlet they receive, the advertisement they read, or the expression of support they observe represent the *bona fide* views of his fellow citizens. Manipulation of voters' views through misrepresentation has no place in the democratic process.

Similarly, late night calls to voters of a State from a nonexistent group purporting to support a particular candidate also have no place in the electoral process. Thus, this recommendation seeks to deter other kinds of misrepresentation in political campaigns not presently covered by existing legislation. Fraudulent door-to-door canvassing and fraudulent phone calls to voters "on behalf" of a candidate are the kinds of misrepresentation that have no place in Federal campaigns. This recommendation is an effort to help deter such behavior.

*Summary.* The improper and unethical activities that occurred in the 1972 campaign will not be eliminated merely by new legislation. Although law seeks both to shape and reflect the moral and ethical values of individuals, new laws cannot fully substitute for such individual values. Therefore the political process and government itself must attract individuals of the highest moral and ethical standards if the improper activities that occurred in the 1972 Presidential campaign are to be eliminated completely in the future.

<sup>43</sup> Section 612 reads: Whoever willfully publishes or distributes or causes to be published or distributed, or for the purpose of publishing or distributing the same, knowingly deposits for mailing or delivery or causes to be deposited for mailing or delivery, or, except in cases of employees of the Postal Service in the official discharge of their duties, knowingly transports or causes to be transported in interstate commerce any card, pamphlet, circular, poster, dodger, advertisement, writing, or other statement relating to or concerning any person who has publicly declared his intention to seek the office of President, or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to Congress, in a primary, general, or special election, or convention of a political party, or has caused or permitted his intention to do so to be publicly declared which does not contain the names of the persons, associations, committees, or corporations responsible for the publication or distribution of the same, and the names of the officers of each such association, committee, or corporation, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

## EXHIBIT No. 1

Sunday 6-29

(212) FL 7-9211 c2

10<sup>00</sup> Caulfield 6/29 @ 8<sup>30</sup>  
 @ the  
 Madison

Met Anthony "Tony" T. Mlesniak  
 5316 195th Street  
 Flushing, N.Y., NY 11365  
 091-01-8090  
 Edward T. Stanley


10<sup>30</sup> Church  
 @ S. J. Corner  
 of Estate House

Caulfield &  
 Stanley

Lunch

12<sup>30</sup> Lunch  
 @ Bist. Sappia  
 6200 Elmwood Road  
 Kenwood  
 Chevy Chase, Md  
 652-7374

EXHIBIT No. 2

SECURITY PACIFIC NATIONAL BANK 	HERBERT W. KALMBACH ATTORNEY AT LAW	N <sup>o</sup> 223
Newport Center Office 550 Newport Center Drive Newport Beach, Calif. 92660	SUITE NO. 900, NEWPORT FINANCIAL PLAZA 550 NEWPORT CENTER DRIVE (714) 644-4111 NEWPORT BEACH, CALIFORNIA 92660	September 27 19 71 90-1851 1222


PAY Nine Hundred Seventeen and no/100----- DOLLARS \$ 917.00

TO THE ORDER OF  
ANTHONY T. ULASEWICZ

HERBERT W. KALMBACH  
TRUSTEE ACCOUNT FOR CLIENTS

*Herbert W. Kalmbach*

(701) ⑆1222⑆1851⑆169⑆002 691⑆ ⑆0000091700⑆

SECURITY PACIFIC NATIONAL BANK 	HERBERT W. KALMBACH ATTORNEY AT LAW	N <sup>o</sup> 104
Newport Center Office 550 Newport Center Drive Newport Beach, Calif. 92660	SUITE NO. 703, NEWPORT FINANCIAL PLAZA 550 NEWPORT CENTER DRIVE (714) 644-4111 NEWPORT BEACH, CALIFORNIA 92660	August 14, 1969 90-1851 1222

PAY NINE HUNDRED TWENTY-THREE AND 83/100\* \* \* \* \* DOLLARS \$ 923.83\*\*

TO THE ORDER OF  
ANTHONY T. ULASEWICZ

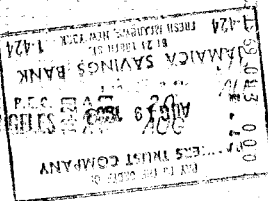
HERBERT W. KALMBACH  
TRUSTEE ACCOUNT FOR CLIENTS

*Anthony T. Ulasewicz*

(701) ⑆1222⑆1851⑆169⑆002 691⑆ ⑆0000092383⑆

16 SEP 1971

16 SEP 1971



16 SEP 1971

*Anthony T. Ulasewicz*

*Anthony T. Ulasewicz*

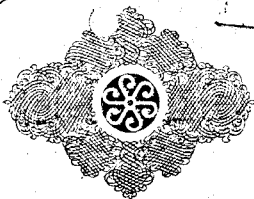
16 SEP 1971

29 SEP 1971

16 SEP 1971

29 SEP 1971

16 SEP 1971



MARILYN R. CORREA

TO

Pay

divided 22,008<sup>00</sup> by 52 weeks -  
 Total 423.23. Divided this by  
 5 = 84.65 daily rate. Worked  
 7 days (not including Sat & Sunday)  
 $7 \times 84.65 = \$592.55$   
 Less \$ 8.00  
\$584.55 is check

pay \$97 every 15<sup>th</sup> & 30<sup>th</sup> which  
 includes the \$8<sup>00</sup> deducted from  
 1st check.

JEFFRIES BANKNOTE COMPANY

Financial Printers, Securities Engravers, Color Lithographers  
 1330 West Pico Boulevard, Los Angeles, California 90015

Telephone (213) 746-1611

## EXHIBIT NO. 3

ULASEWICZ TRAVELSJUNE, 1969

6/28/69      Holiday Inn, D. C., \$22.29.

JULY, 19697/ 7/69      Eastern shuttle, <sup>1/</sup> N. Y. -D. C.7/ 8/69      Eastern shuttle, <sup>1/</sup> D. C. -N. Y.

7/ 8/69      Roger Smith Hotel, D. C., \$34.20

7/14/69      Roger Smith Hotel, D. C., \$6.30

7/19/65 <sup>2/</sup>      Eastern shuttle, <sup>1/</sup> N. Y. -Boston.7/19/69 to 7/23/69      Boston, Avis, 327 miles

7/19/69      H. Johnson, Kingston, Mass. \$65.10

7/20/69      Woods Hole- Martha's Vineyard (r. t.)

7/20/69      Edgartown-Chappaquiddick (r. t.)

7/21/69      Woods Hole, Martha's Vineyard (r. t.)

7/23/69      Eastern shuttle <sup>1/</sup> Boston-N. Y.7/30/69      Eastern shuttle <sup>1/</sup> N. Y. -Boston

7/30/69      Howard Johnson, Kingston, Mass., \$21.00

7/30/69      Boston, National, 361 milesAUGUST, 1969

8/ 3/69      Eastern shuttle, N. Y. -Boston

1/ shuttle tickets do not always indicate travel direction; date not reliable as indicator of travel date.

2/ probably misprint, serial number indicates 1969 ticket.

AUGUST, 1969

8/ 5/69            Panorama Motor Lodge, "Bourne", Mass.  
 8/ 5/69 to 8/9/69        N. Y., National, 679 miles  
 8/ 6/69            Martha's Vineyard Motor Inn, \$27.48  
 8/ 7/69            Howard Johnson, Warwick, R.I., \$21.00  
 8/12/69            Eastern shuttle, N. Y. -Boston  
 8/12/69 to 8/15/69       Boston, National, 278 miles  
 8/12/69 to 8/14/69       Mansion House, Martha's Vineyard, \$57.09  
 8/15/69            Eastern shuttle, Boston-N. Y.  
 8/26/69            Eastern shuttle, N. Y. -Boston  
 8/27/69            Martha's Vineyard Motor Inn, \$23.26  
 8/29/69            Eastern shuttle, Boston-N. Y.

SEPTEMBER, 1969

9/ 2/69            Eastern shuttle, N. Y. -Boston  
 9/ 2/69 to 9/4/69        Boston, National, 182 miles  
 9/ 3/69            Howard Johnson, \$33.90. Boston.  
 9/ 4/69            Eastern shuttle, Boston-N. Y.  
 9/ 4/69            Roger Smith Hotel, D. C., \$6.30  
 9/ 5/69            (2 tickets) Eastern shuttle, N. Y. -Wash., D. C.  
 9/12/69            (2 tickets) Eastern shuttle, Wash., D. C. -N. Y.  
 9/18/69            American, N. Y. -L. A.

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SEPTEMBER, 1969

9/18/69 L. A. National, 558 miles  
 9/18/69 Beachtown Motel, Longbeach, Cal., \$16.50  
 9/19/69 "Royal Inn Wharf", "DCCEAEBA", \$16.80  
 9/20/69 Sail Inn, Newport Beach, \$10.50  
 9/21/69 Holiday Inn, San Diego, \$29.40  
 9/23/69 Holiday Inn, Boston, \$48.62  
 9/25/69 to 9/27/69 N. Y., National, 478 miles  
 ? to 9/29/69 Wash., D. C., National, 46 miles  
 9/29/69 (2 tickets) Eastern shuttle, Wash. -N. Y.

OCTOBER, 1969

10/ 5/69 Motel Madison, Boston, \$15.69  
 10/ 6/69 Eastern shuttle, N. Y. -Boston  
 10/ 6/69---10/8/69 Boston, National Car, 197 miles  
 10/ 8/69 Eastern shuttle, Boston to Wash., D. C.  
 10/12/69 Roger Smith Hotel, \$6.30  
 10/15/69 (2 tickets) Eastern shuttle, N. Y. -Boston

NOVEMBER, 1969

11/12/69 Eastern shuttle, N. Y. -Wash., D. C.  
 11/15/69 (date altered to 16) Roger Smith, \$176.71  
 11/15/69 Eastern shuttle, Wash., D. C. -N. Y.  
 11/17/69 Eastern shuttle, N. Y. -Wash., D. C.

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DECEMBER, 1969

12/ 3/69 American, N. Y. -L. A. -Cleveland-N. Y.  
 12/ 3/69 Avis, L. A., 150 miles  
 12/ 3/69 Holiday Inn, West Covina, Cal., \$25.20  
 12/12/69 (2 tickets) N. Y. -D. C. Eastern shuttle  
 12/21/69 to 12/30/69, Boston, National, 325 miles  
 12/22/69 American, N. Y. -Cleveland-N. Y.  
 12/23/69 Holiday Inn, Cleveland, \$14.32  
 12/23/69 to 12/24/69 (unclear) Beria, Ohio, National, 40 miles  
 12/27/69 Eastern shuttle, N. Y. -Boston  
 12/29/69 Holiday Inn, Manchester, New Hampshire, \$11.75  
 12/30/69 Boston-N. Y., Eastern shuttle

JANUARY, 1970

1/ 3/70 Eastern shuttle, N. Y. -Boston  
 1/ 3/70 to 1/8/70 Boston, Avis, 309 miles  
 1/ 3/70 Panorama Motel, Bourne, Mass., \$10.57  
 1/ 4/70 Ferry receipt signed "Ferguson", Woods Hole to Vineyard Haven  
 1/ 6/70 to 1/9/70 N. Y., National, 570 miles  
 1/ 7/70 Howard Johnson, Boston, \$18.00  
 1/13/70 (2 tickets) Eastern shuttle Boston, N. Y.  
 1/13/70 Eastern shuttle, N. Y. -D. C.  
 1/27/70 Eastern shuttle, N. Y. -D. C. (2 tickets)  
 1/29/70 Eastern shuttle, N. Y. -D. C. (2 tickets)

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FEBRUARY, 1970

2/ 4/70 Eastern N. Y. -Miami-N. Y.  
 2/ 4/70 Miami, National, 204 miles  
 2/ 7/70 Holiday Inn, Coral Gables. \$75.31  
 2/ 9/70 (?) Eastern shuttle, N. Y. -Wash., D. C.  
 2/14/70 (2 tickets) Eastern shuttle, N. Y. -D. C.  
 2/18/70 (?) Ramada Inn, Milwaukee, Wis. \$40.97  
 2/19/70 N. Y. -Mil. -N. Y., United  
 2/24/70 Eastern shuttle, N. Y. -D. C. (2 tickets)

MARCH, 1970

3/ 3/70 \_\_\_\_\_ Rest. (?) Flushing, N. Y. \$40.05  
 3/ 3/70 Eastern shuttle, N. Y. -D. C. (2 tickets)  
 3/ 5/70 Northwest, N. Y. C. -M. S. P. -M. O. T. -G. F. K., FAR.  
 WAS. (?) \$233.10  
 3/10/70 Minot Daily News, \$6.50, S-\$1.00 receipt, with name  
 Dick Dobson, 701-838-3341.  
 3/10/70 MN, N. Dakota, \$26.74  
 3/12/70 2:30 p.m. to 9:30 p.m. St. Louis Park, Minn., National.  
 252 miles  
 3/12/70 North Central, Grand Forks, N. D., G (?) -MOT-GMC (?)  
 3/12/70 Holiday Inn, CAFE (?) N. D. \$33.13  
 3/13/70 MN, N. D. \$11.12  
 3/18/70 Town House Motel, Fargo, N. D. \$67.01  
 3/16/70 Northwest Airlines, Fargo CTQ (?)

APRIL, 1970

4/ 2/70 N. W. Air., N. Y. -Bangor-PWM-N. Y.

4/ 6/70 to 4/9/70 Bangor, National, 160 miles

4/ 6/70 Holiday Inn, Bangor, Maine \$12.60

4/ 6/70 Holiday Inn, AUG (?) <sup>6/</sup> \$12.60 AUGUSTA, MAINE

4/ 7/70 Sheraton, Portland, Me. \$36.76

4/ 8/70 Press Herald-Evening Express, receipt for  
back copies, \$3.57. (paid Ap. 9)

4/ 9/70 East. Shuttle, N. Y. -D. C. (2 tickets)

4/13/70 East. shuttle, N. Y. -Boston

4/13/70 Madison Motel, Boston. \$33.50

4/13/70 Eastern, Bost. -DCA (?)

4/16/70 Howard Johnson, Kingston, Mass. \$13.74

4/16/70 Manger Hay Adams, D. C. \$22.36

4/16/70 East. Shuttle, N. Y. -D. C.

4/22/70 East. Shuttle, N. Y. -D. C. (2 tickets)

4/27/70 East. Shuttle, N. Y. -D. C. (2 tickets)

4/29/70 East. Shuttle, N. Y. -D. C. (2 tickets)

4/29/70 Northeast Air. Speed ticket, Boston-D. C.

MAY, 1970

5/10/70 to 5/12/70 N. Y., National, 622 miles

5/ 9/70 (11 and 12 added) Holiday Inn, Dedham, Mass. \$23.38

5/12/70 Receipt to T. A. Watkins <sup>7/</sup> for "campaign contributions."

6/ AUG. circled on receipt; it's Augusta, Maine.

7/ this address listed as Fabric Co. in New York.

MAY, 1970

5/14/70 East. Shuttle, N. Y. -D. C. (2 tickets)  
 5/21/70 N. Y. -Phoe. -N. Y. air ticket.  
 5/21/70 Ramada Inn, Phoenix, Arizona \$12.58  
 5/21/70 Phoe., National, 50 miles.  
 5/25/70 Receipt, T. Watkins. 5/25 to 5/31 Rm. # 4, unknown location.  
 5/26/70 East. Shuttle, N. Y. -D. C. (2 tickets)

JUNE, 1970

6/17/70 East. Shuttle, N. Y. -Boston  
 6/17/70 to 6/19/70 Boston, National, 160 miles  
 6/19/70 East. Shut. N. Y. -Boston  
 6/22/70 East. Shuttle, N. Y. -D. C. (2 tickets)  
 6/30/70 Am. Air, Albany (?)

JULY, 1970

7/ 5/70 American Air., Albany-Ord-ABq. (?)  
 7/ 7/70 TWA re-route  
 7/13/70 East. Shuttle, N. Y. -D. C. (2 tickets)  
 7/21/70 7/27/70 N. Y., National, 1059 miles  
 7/26/70 Ferry W. Hole to V. Haven, note 5 or 6 passengers crossed out.

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AUGUST, 1970

8/11/70 Eastern Shuttle, N. Y. -D. C. (2 tickets)  
 8/13/70 Ramada Inn, Fresno, Cal. \$65.56  
 8/14 (?)/70 Eastern Shuttle, N. Y. -D. C. (2 tickets)  
 8/14/70 TWA, N. Y. -L. A. -Fresno (?) -N. Y.  
 8/15/70 United, L. A. -Fresno  
 8/15/70 to 8/18/70 Fresno, National, 438 miles  
 8/17/70 Ramada, L. A. \$14.51  
 8/17/70 Fresno, L. A., United.

SEPTEMBER, 1970

9/ 2/70 Sheraton, Boston \$51.11  
 9/ 3/70 Eastern Shuttle, N. Y. -Boston (2 tickets)  
 9/ 5/70 Boston, National, 484 miles  
 9/ 9/70 Penn. R. R., Wash. -Baltimore (2 tickets) N. Y.  
 9/ 9/70 Allegany Air., Philadelphia-D. C.  
 9/11/70 Baltimore Hilton \$117.39  
 9/14/70 Baltimore to Washington, Penn. R. R.  
 9/15/70 Baltimore car rent. National to 9/16/70, 270 miles  
 9/22/70 Eastern Shuttle, N. Y. -Washington  
 9/22/70 Eastern, Washington-Miami-Washington  
 9/25/70 Eastern Shuttle, N. Y. -Washington  
 9/25/70 Holiday Inn, Ft. Lauderdale, Fla. \$43.28  
 9/29/70 Penn. Central, N. Y. to Philadelphia

OCTOBER, 1970

10/ 3/70            Holiday Inn, Philadelphia, Penn. \$38.03  
 10/ 3/70 to 10/5/70    Philadelphia, National, 147 miles  
 10/5/70            Eastern Shuttle, N. Y. -D. C.  
 10/25/70           Eastern, N. Y. -Jacksonville-Tallahassee, Fla.  
 10/25/70 to 10/27/70    Tallahassee, National, 61 miles  
 10/26/70           Eastern, Tallahassee-Atlanta-Washington, D. C.  
 10/27/70           Holiday Inn, Tallahassee, Fla. \$28.07  
 10/27/70           Eastern Shuttle, D. C. -N. Y.

NOVEMBER, 1970

11/ 5/70           Eastern Shuttle, N. Y. -D. C.  
 11/ 7/70 (?) <sup>12/</sup> Mansion House, M. V. Mass. \$34.71  
 11/25/70           Eastern Shuttle, N. Y. -D. C.

DECEMBER, 1970

12/ 2/70           Polcari's, Inc., Boston, Mass. \$9.50  
 12/ 2/70           Hotel Madison, \$13.68  
 12/ 2/70           Eastern Shuttle, N. Y. -Boston  
 12/ 2/70 to 12/4/70    Boston, National, 155 miles  
 12/3/70 (?)          Eastern Shuttle, N. Y. -D. C.  
 12/ 3/70           Holiday Inn, Hyannis, Mass. \$25.25  
 12/(?)/70           Eastern Shuttle, N. Y. -Boston  
 12/13/70           Eastern Shuttle, N. Y. -D. C. (2 tickets)  
 12/18/70           Penn. Central, N. Y. to Baltimore  
 12/21/70           Holiday Inn, Baltimore, \$75.49

12/ could be 1/7/70

DECEMBER, 1970

12/21/70 Penn. Central, Baltimore-N. Y.  
 12/26/70 Eastern Shuttle, N. Y. - Boston  
 12/28/70 Thomas A. Ulasewicz, <sup>13/</sup> Boston, Avis, 249 miles  
 12/28/70 Holiday Inn, Dedham, Mass.  
 12/28/70 "Watkins" vote list receipt  
 12/30/70 Holiday Inn, Boston, \$20.00  
 12/30/70 N. Y. - Boston  
 12/28/70 to 12/30/70, Boston, National, 84 miles

JANUARY, 1971

1/ 5/71 Penn. Central, N. Y. -D. C.  
 1/ 7/71 Holiday Inn, Hyannis, Mass. \$70.00  
 1/14/71 Penn. Central, N. Y. -D. C.  
 1/21/71 Holiday Inn, Philadelphia. \$80.47  
 1/16/71 Penn. Central, N. Y. -Philadelphia (r. t.)

FEBRUARY, 1971

2/ 1/71 Penn. Central, Albany (r. t.)  
 2/ 1/71 Dewitt Clinton, Albany \$58.38  
 2/12/71 N. Y., National, 141 miles  
 2/25/71 N. Y. -D. C., Penn. Central  
 2/26/71 D. C. -N. Y., Penn. Central  
 2/28/71 N. Y. -Rochester



MARCH, 1971

3/ 2/71            Holiday Inn, Rochester  
 3/ 2/71            Rochester-Schenectady, Penn. Central  
 3/ 2/71            Albany-N. Y., Penn. Central  
 3/ 3/71            Albany, National, 126 miles  
 3/ 3/71 (changed to 4)    Dewitt Clinton Hotel, Albany, \$59.19  
 3/ 4/71            Roger Smith Hotel, Washington, D. C. \$47.49

APRIL, 1971

4/ 8/71            N. Y. -Birmingham, Eastern  
 4/ 7/71 (changed to 8)    Holiday Inn, Hyannis, Mass. \$118.29  
 4/ 8/71            Downtowner Motel, Birmingham, Alabama \$61.64  
 4/ 9/71            Eastern, Birmingham-Atlanta-Washington, D. C.  
 4/10/71            Roger Smith, \$22.23  
 4/12/71            American Jet Express, D. C. -N. Y.  
 4/23/71            Penn. Central, N. Y. -D. C. ~~E~~----- (indistinct)  
 4/24/71            N. Y. -Tucson, Arizona-N. Y., TWA  
 4/25/71            Eastern Shuttle, N. Y. -D. C.  
 4/28/71            Ramada, Tucson, Ariz., \$69.12

MAY, 1971

5/ 4/71            Penn. Central, N. Y. -D. C.  
 5/11/71            Penn. Central, N. Y. -D. C.  
 5/13/71            D. C. -N. Y., Penn. Central  
 5/28/71            N. Y. -D. C., Penn. Central

JUNE, 1971

6/ 2/71 Flushing, National, \$74.14  
 6/ 6/71 Eastern, N. Y. -Jacksonville, Fla.  
 6/ 6/71 Robert Meyer Hotel, Jacksonville, Fla. \$66.98  
 6/ 8/71 Jacksonville-Atlanta - D. C., Eastern  
 6/ 9/71 D. C. -N. Y., Eastern  
 6/15/71 Eastern, N. Y. -D. C. (either direction)  
 6/15/71 Eastern, D. C. -N. Y.  
 6/16/71 N. Y., National, 1896 miles  
 6/24/71 Eastern, D. C. -N. Y.  
 6/24/71 Eastern, N. Y. -D. C.  
 6/27/71 Sheraton, Hyannis, Mass. \$114.25

AUGUST, 1971

8/ 3/71 N. Y. -D. C. -N. Y.  
 8/ 5/71 Nautilus Motor Inn, Woods Hole, \$101.90  
 8/16/71 Sheraton, Hyannis, Mass. \$110.69  
 8/19/71 Holiday Inn, Groton, Conn. \$39.96  
 \_\_\_\_\_ (Am. X. charge) \$78.85  
 8/21/71 Am. Air, N. Y. -L. A. -Honolulu-N. Y. (r. t.)

SEPTEMBER, 1971

9/ 8/71 Holiday Inn, Hyannis, Mass. \$62.84  
 9/ 9/71 Holiday Inn, Norwalk, Conn. \$82.70

SEPTEMBER, 1971

9/13/71 Eastern, N. Y. -D. C. -N. Y.  
 9/23/71 Eastern, N. Y. -D. C. -N. Y.  
 9/24/71 N. Y. -Roanoke-N. Y.  
 9/25/71 to 9/26/71 Roanoke, National, 113 miles  
 9/26/71 Holiday Inn, Roanoke, Virginia \$22.77  
 9/26/71 N. Y. -L. A., United  
 9/28/71 Century Plaza Hotel, L. A. \$113.23

OCTOBER, 1971

10/10/71 United, N. Y. -San Diego-N. Y.  
 10/10/71 to 10/11/71 L. A., National, 45 miles  
 10/11/71 United, San D. -L. A.  
 10/12/71 United, L. A. -N. Y.  
 10/11/71 through 10/13/71 Holiday Inn Statement, L. A. \$68.95  
 10/11/71 to 10/13/71 L. A., National, 75 miles

NOVEMBER, 1971

11/14/71 to 11/15/71 Holiday Inn, Hyannis, Mass. \$40.78  
 11/15/71 Woods Hole to Vineyard Haven. Ferry  
 11/15/71 Return Ferry, Woods Hole.  
 11/17/71 "Tom Watkins" receipt for back issues (of a newspaper?)  
 11/18/71 Northeast, N. Y. -Manchester, New Hampshire  
 11/18/71 Manchester, N. H., Avis, 150 miles

NOVEMBER, 1971

11/18/71 to 11/20/71 "T. Watkins" N. H. Highway Hotel, \$38.90  
11/29/71 Gas.  
11/ ? Gas.  
11/29/71 through 11/30/71 Holiday Inn, White June, Vermont. \$32.00

DECEMBER, 1971

12/ 1/71 New Hampshire Highway Hotel, Concord. \$27.80  
12/ -- Gas

## EXHIBIT No. 4

LAW OFFICES

KALMBACH, DE MARCO, KNAPP &amp; CHILLINGWORTH

## MEMORANDUM

FILE J.D.E. - Edward T. Stanley      Date: July 8, 1969  
To: File  
From: Herbert W. Kalmbach

At 9:15 a.m. this morning, I talked to Tony Ulasewicz and we agreed on the following:

1. That he will use his American Express credit card for air travel and other necessary expenses.

2. He will make application for a second American Express credit card in the name of Edward T. Stanley and will advise the American Express Company that I will guarantee payment personally.

3. I will get telephone company credit cards for him in both names.

I reviewed with him our procedures on payment and such are satisfactory, including the per diem allowance of \$20 per day.

*H.W. Kalmbach*

## EXHIBIT NO. 5

1. Investigation into accident at Chappaquiddick; July-August 1969.
2. Investigation into living conditions of Donald A. Nixon in the Sierra Madre, Calif; September 1969.
3. Investigation into allegedly segregated apartment owned by prominent Republican in Tallahassee, Florida; October 1970.
4. Investigation into Intertel, Robert Peloquin, William Hundley; January 1971.
5. Investigation into the background of Richard M. Dixon, comic imitator of President Nixon; October 1971.
6. Investigation into the producer of "Millhouse: A White Comedy," October 1971.
7. Investigation into alleged use of illegal immigrants by Romano Banuelos; date unknown.
8. Investigation into Quaker demonstrators in front of the White House; date unknown.
9. Investigation into the activities and background of Meier Kahane, Jewish Defense League; date unknown.
10. Investigation into a group in New York City selling Presidential emblems on walnut without appropriate authorization; date unknown.
11. Observation of demonstrators during protest marches in front of the White House and at the Washington Monument; 1969, 1970.
12. Investigation of civil rights incident at Jefferson Hospital, Philadelphia, Pennsylvania; date unknown.

13. Investigation into an alleged incident involving Speaker Albert in the Zebra Room, Washington, D. C.; date unknown.
14. Investigation into the witnesses and reporters who broke story on My Lai massacre; date unknown.
15. Investigation into Jack Anderson's relationship with Kirkland Hall College; date unknown.
16. Investigation into the background, location, supporters, and contacts of the Brookings Institution; July 1971.
17. Investigation into the lessor of the apartment to the Nixon family in 1945 in New York City; date unknown.
18. Investigation into activities of John Alessio, June 1970.
19. Trip to Hawaii to investigate party attended by by Senator Kennedy; August 20-22, 1971.
20. Investigation into "Crime Checks", a law enforcement group in Chicago; date unknown.
21. Investigation into background and personnel involved with In-Flight news programs; date unknown.
22. Investigation into Businessmen's Educational Fund; date unknown.
23. Investigation into alleged improper behavior by a United States Senator in New York City; date unknown.
24. Investigation in Birmingham, Alabama, into an alleged scandal involving George Wallace's brother and road contracts; April 8, 1971.
25. Investigation into the political composition of the Birmingham, Alabama city council; April 1971.

26. Investigation into the firm of Dyson and Kissner to determine the relationship of Larry O'Brien with that firm; late 1969.
27. Investigation into the background of Louis Harris Associates; date unknown.
28. Investigation into the background of the Committee for Public Justice, New York City; date unknown.
29. Investigation into the distribution of SBA loans in North Dakota; March 1970.
30. Investigation into the House of Mercy Home for Unwed Mothers, Washington, D. C.; date unknown.
31. Investigation into background of Public Affairs Analysts; and relationships with Larry O'Brien  
Aug. 5, 1970
32. Investigation into background of President's Commission on Consumer Interests; date unknown.
33. Investigation into background of Potomac Associates; July 6, 1971.
34. Investigation into background of Young Republicans National Federation; date unknown.
35. Investigation into background of Young Republicans Leadership Conference; date unknown.
36. Background investigation into National Peace Action Coalition; date unknown.
37. Investigation into a water purification controversy in New Mexico; July 1970.
38. Investigation into misuse of labor by Smithsonian Institution; date unknown.



39. Investigation into background of Richard O. Cudahy, Cochairman of Citizens for Proxmire; Feb. 1970
40. Investigation of former Senator Tydings and charges that he was being paid to bring in Israel immigrants; Sept. 25, 1970.
41. Background investigation into attendees at United States Conference of Mayors concerning revenue sharing; date unknown.
42. Investigation and viewing of "An Evening with Richard Nixon," New York City; date unknown.
43. Investigation into the <sup>causes of</sup> death of Rebecca Ryan, personal secretary to Mrs. Rose Kennedy; date unknown.
44. Investigation into brothers of columnist Jack Anderson to determine if one held a job in government; late 1971.
45. Investigation into allegations of a White House official being involved with call girls; October 27, 1971.
46. Investigation into new yachts for the President; November - December 1971.
47. Checks on the contributors list to the campaigns of Senator Muskie, Kennedy, Tydings, Hatfield, Murphy, Proxmire, Gore, Hartke, Burdick, and possibly Percy, Hart, and Morse; dates unknown.
48. Frequent Board of Election checks for upcoming visitors to the White House.
49. Investigation into the narcotics shortage in New York City during the dock strike; January 1972.
50. Background investigation into the Gallagher Presidents' Report; December-January 1972.

51. Investigation of takeover of the Statue of Liberty by the Vietnam Veterans Against the War; January 1972.
52. Investigation into party in Phoenix, Arizona, involving allegedly loud behavior by U.S. Senators; date unknown.
53. Investigation into similar allegations of misbehavior by Senators and Governors at a party in Hollywood, California; date unknown.
54. Investigation in Wisconsin into an unidentified individual attempting to recruit college students to pull pranks in the Presidential primary campaign in Wisconsin; January 1972. The individual Ulasewicz was sent to investigate was Donald Segretti, sent by a different arm of the White House to encourage disruption and harassment.
55. Full investigation into the McCloskey campaign in New Hampshire; December 1971. This investigation was undertaken by Caulfield and Ulasewicz to demonstrate the potential of the Sandwege Plan discussed in the report..
56. Investigation into convention hall financing plan by Democrats in Miami, Florida; March 1972.
57. Investigation in Augusta and Bangor, Maine, into all newspaper files on past Muskie campaigns; date unknown.
58. Investigation into youth leader for Muskie to determine if he had any radical associations; April 16, 1971.
59. Investigations into the Maine Sugar Industry to determine if any Small Business Administration loans had been influenced by Senator Muskie; April 15, 1971.
60. Investigation in New York City to determine whether Ester Newberg, former worker for Senator Robert Kennedy, worked for Senator Muskie in his New York campaign headquarters; December 20, 1971.
61. Attempted surveillance of meeting of Muskie's financial backers at 77th Street and Central Park West, New York City; January 1972.

CUSTOMER'S RECORD COPY OF - PERSONAL MONEY ORDER DRAWN ON

FIRST NATIONAL CITY BANK

NEW YORK

1-8  
210

MO

6875125

1971

PAYEE

*New York Telephone*SAVE  
THIS  
RECORD

NON - NEGOTIABLE

The Remitter should sign, in ink, his or her name and address on the Money Order, indicating in a date and the name of the payee. Purchaser agrees that no request for refund or to stop payment or otherwise will be made to this Bank with respect to the said Money Order unless this customer's RECORD is submitted therewith.

*Thomas G. Weatheris*  
321 E 48th St - Apt 11c

PLEASE COMPLETE AND SIGN FNCB MONEY ORDER PROMPTLY

IRVING TRUST COMPANY

NEW YORK

No. 462386

*Nov. 10 1971*

PAYEE

*Con Edison*

NOT NEGOTIABLE

SAVE THIS RECORD

It must be presented to the bank if there is any need to refer to this check at a later time.

*Thomas G. Weatheris*  
321 E 48th St - Apt 11c  
NYC

CUSTOMER'S COPY

EXHIBIT NO. 6

Drawn on

**CHEMICAL BANK**

81-19 Roosevelt Avenue  
Jackson Heights, N. Y. 11372

Customer's Record Copy 1-12  
of Personal Money Order 210

53

JAN. 5 72 No 113740

Payee

MARY GAUDIOT CORP

53 CHEM. BK. 81-19 370 00 CTS

RECORD COPY - NOT NEGOTIABLE

Thomas G. Watkins

Pay bills the easy way - By Check  
Open your Special Checking Account today  
• No minimum balance required.  
• Low cost - your name imprinted on each check.

A Savings Account Brings Happiness and Security  
Build a reserve for your children's education,  
a new home, a real vacation or any number of things  
you dream of.

Please complete and sign Personal Money Order Form - Promptly - Save This Record

check chgs & mail - .43

**CUSTOMER'S RECORD**

PERSONAL MONEY ORDER  
BANKERS TRUST COMPANY

NO. 8323473

DATE NOV - 3 1971

AMT. \$ 120.00

TO MARY GAUDIOT  
CORP

FOR: Nov. RENT

**CUSTOMER'S RECORD**

PERSONAL MONEY ORDER  
BANKERS TRUST COMPANY

NO. 8323472

DATE NOV - 3 1971

AMT. \$ 250.00

TO MARY GAUDIOT  
CORP

FOR: Nov. RENT

**IMPORTANT**

1. INSERT PROMPTLY IN INK THE CURRENT DATE AND THE PAYEE.
2. SIGN THE MONEY ORDER AND INSERT YOUR ADDRESS.
3. IF THE CHECK IS LOST, IMMEDIATELY NOTIFY THE BRANCH OF BANKERS TRUST COMPANY AT WHICH IT WAS ISSUED.

**IMPORTANT**

1. INSERT PROMPTLY IN INK THE CURRENT DATE AND THE PAYEE.
2. SIGN THE MONEY ORDER AND INSERT YOUR ADDRESS.
3. IF THE CHECK IS LOST, IMMEDIATELY NOTIFY THE BRANCH OF BANKERS TRUST COMPANY AT WHICH IT WAS ISSUED.

CUSTOMER'S RECORD COPY OF **REGISTERED** - PERSONAL MONEY ORDER DRAWN ON

**MANUFACTURERS HANOVER TRUST COMPANY**

NEW YORK, N. Y.

1-30 (M)  
210

Dec 2 1971

30840044

PAYEE

Mary Gaudiot Corp

81-19 370 00 CTS

Thurs.

321 E 4

IMPORTANT - FOR YOUR PROTECTION BE SURE TO FILL OUT THE CHECK AND THIS COPY BEFORE LEAVING THE BANK.

1. WRITE IN THE DATE.
2. WRITE IN THE NAME OF THE PERSON OR FIRM TO WHOM MONEY IS BEING SENT.
3. SIGN YOUR NAME - WRITE IN ADDRESS.

NOT NEGOTIABLE

Rent - Nov.

When processing the REGISTERED CHECK Personal Money Order form, corresponding in number and amount to that shown hereon, agrees to inscribe thereon, in ink, the date, payee's signature and address and agrees to indemnify for all events made possible by his failure to do so. When so completed, the book named above as drawn off this REGISTERED CHECK Personal Money Order and the Purchaser of this REGISTERED CHECK Personal Money Order, are provided with benefits, protection and safeguards as set forth in the Warranty issued to the bank.

NOT VALID OVER \$500.00

I have received from Mr. THOMAS  
WATKINS, \$ 1.10 for security  
deposit and october rent in advance  
on apartment 11C at 321 E. 48st  
N.Y.C.

A. de Silva

838-2059.

Mr. de Silva-

## EXHIBIT No. 7

SUBJECT:

OPERATION VERMONTINTRODUCTION

The 1972 Presidential Campaign strongly suggests a definitive Republican need for the creation of a political intelligence-security entity to be located within the private sector. This entity, surfacely disassociated from the Administration by virtue of an established business cover, would have the capability of performing in a highly sophisticated manner designed to ensure that the major offensive intelligence and defensive security requirements of the entire campaign and Republican convention would be professionally structured, programmed and implemented. In the author's judgment, this effort would make a significant and perhaps crucial contribution towards the reelection of Richard Nixon.

Indicated below, therefore, are a series of considerations and suggestions posed in this regard for the review of those requested to endorse the suggested undertaking.

I. OPPOSITION INTELLIGENCE EFFORT

The presence of Lawrence O'Brien as Chairman of the Democratic National Committee unquestionably suggests that the Democratic nominee will have a strong, covert intelligence effort mounted against us in 1972. The 1968 L. A. Times, New York Post, U. S. Marshal team which operated from former U. S. Attorney Morgenthau's office (assertedly without his knowledge) is evidence of O'Brien's modus operandi and indicative of what we can expect this time around.

In this regard, we should be particularly concerned about the new and rapidly growing Intertel organization (See Tab "A"). Should this Kennedy mafia dominated intelligence "gun for hire" be turned against us in '72, we would, indeed, have a dangerous and formidable foe.

Close scrutiny of this organization's activity has been ongoing here. Indicated below are a series of points designed to suggest the political hazards that this group represents:

A) The organization was co-founded by Bill Hundley, former Special Assistant to A. G. Bobby Kennedy and Bob Pelloquin, Kennedy loyalist who functioned as Senior Attorney in Justice's Organized Crime and Racketeering Section, also under Bobby Kennedy.

B) Other Kennedy mafia types, including the so called mysterious David I. Belisle, former Director Investigations for the National Security Agency, are principals in the organization.

C) It has been reliably determined that Stephen Smith, EMK's brother-in-law, has privately visited Intertel's New York office headed by former FBI supervisor Jack O'Connell known by his colleagues to have been a "black bag" specialist while at the Bureau. Smith, unquestionably, would think Intertel should EMK go for the big prize.

D) On Intertel's Board of Directors is Jerome S. Hardy, Executive Vice President of the Dreyfus Corporation which is chaired by Howard Stein. The media reports that Stein will be a heavy contributor to a Democratic-Liberal or 3rd Party Presidential candidate. Shortly before this media revelation, the aforementioned Jack O'Connell

Page three (

accompanied an electronics specialist to both Stein's and Hardy's offices for sweeping purposes.

E) It has been very reliably determined that some of Intertel's principals possess gambling weaknesses or have been quietly let go from their sensitive federal law enforcement positions because of financial improprieties. One Intertel principal, related to a known Baltimore Cosa Nostra figure and released from federal service because of an established gambling weakness, is now in charge of Hughes' security operation in Las Vegas.

F) The investigative reporter fraternity is taking a closer look at the potential for Intertel to be exposed as a mafia front or a mafia exploitable tool for its Caribbean and Vegas operations. The recent Look article on Howard Hughes alludes to this point. Bill Kolar (former Chief of Intelligence at IRS) and Resorts International's President I. G. (Jack) Davis, recently testified before the New Jersey legislature advocating legalized gambling in that mafia ridden state.

All of the above facts are mentioned to suggest how the weaknesses of Intertel, intertwined with established Democratic-Kennedy loyalties make the organization most susceptible to a '72 intelligence gun for hire approach by O'Brien or the Democratic Presidential nominee. The deep concern here is that the assignment could be accepted on a compartmentalized basis and easily hidden from republican James Crosby, Chairman of the Board of Resorts International (assertedly owning 91 of Intertel stock). Jim Golden, formerly with Intertel, has now switched over to the Hughes'



Page Four

Tool Company and is far removed from the day to day intelligence activities of Intertel. Thus, the operating headquarters is bereft of any Nixon support or loyalty.

It is recommended that consideration be given to have Intertel neutralized by Justice to preclude such development from taking place or to discourage consideration by O'Brien or Stephen Smith. This can be accomplished by directing Justice (if it has not done so already) to open a case with a view towards determining if the organization has unauthorized access to sensitive government files. It most certainly has.

Among other factors supporting this contention is the consensus in the federal intelligence sector indicating that Intertel, in all likelihood, delivered the details of a reported Justice-IRS skimming investigation of Bob Maheu to Hughes causing Maheu's fall and Hughes' departure from Vegas. The manipulated threat of indictment of Intertel principals would effectively minimize this threat, create a potentially debilitating intelligence weakness for O'Brien's forces and force them to try other, less sophisticated sources. Additionally, "Operation Sandwedge" would be free to operate both offensively and defensively without a dangerous adversary.

#### PROPOSED "SANDWEDGE" RESPONSIBILITIES

The total offensive intelligence, defensive security requirements for the '72 Presidential Campaign and Republican National Convention will be a large and sensitive undertaking.

Operation Sandwedge proposes that it be charged in this regard with the following responsibilities:

OFFENSIVE (New York City based - clandestine operation)

- A) Supervise penetration of nominees' entourage and headquarters with undercover personnel.
- B) "Black Bag" capability (discuss privately) including all covert steps necessary to minimize Democratic voting violations in Illinois, Texas, etc.
- C) Surveillance of Democratic primaries, convention, meetings, etc.
- D) Derogatory information investigative capability, world-wide.
- E) Any other offensive requirement deemed advisable.

DEFENSIVE OPERATIONS

- A) Select and supervise the private security force hired in connection with the Republican National Convention. Conduct all political security investigations at Republican Convention.
- B) Establish and supervise nation-wide electronic counter-measures capability in connection with all non-presidential security aspects of '72 campaign.
- C) Supervise all security operations at 1701 Pennsylvania Avenue, N.W. Conduct all security investigations (leaks, personnel, etc.)

- D) Ensure the political security aspects of the travelling campaign staff.
- E) Conduct any Republican Party-Campaign oriented investigation nation-wide.

#### OPERATING COVER

The consensus dictates that a privately created corporate business entity would be the most effective tool to implement the sensitive responsibilities indicated above. The corporation would posture itself as a newly formed security consulting organization ostensibly selling itself as a group of highly talented investigator-security experts with impeccable Republican credentials who actively seek only Republican Corporations and law firms as clients.

Since the key operating principals (3 or 4 persons) in the corporate entity would be well known Nixon loyalists in the law enforcement area, the defensive involvement, as outlined above, would be plausible and readily acceptable to all friend or foe inquiries.

The offensive involvement outlined above would be supported, supervised and programmed by the principals, but completely disassociated (separate foolproof financing) from the corporate structure and located in New York City in extreme clandestine fashion. My source would be charged with setting up and supervising this operation. In other words, he would not surface. Rather, his responsibilities would be increased and he would be charged with setting up the clandestine operation in exactly the same fashion as he did during his career. You are aware, of course, that his

Page seven

expertise in this area was considered the model for police departments throughout the nation and the results certainly proved it.

"SANDWEDGE" PRINCIPALS

It is suggested that the best method of ensuring the success of Sandwedge is by limiting the principals to an absolute minimum, but to allow for an expansionary backup of consultants on a case by case basis where the need arises. The involvement in defensive campaign activity as indicated above would, under inquiry, be postured as a natural "ad hoc" contribution on the part of the corporation to the '72 Republican effort. The covert or offensive side of the operation, in no way connected to the corporation, would be untraceable to any of the principals or the Administration.

Necessarily then, the principals should be strong Nixon loyalists, possessing the necessary credentials to perform in this highly sensitive area, professionally, with the described effective cover. Below are listed the principals who are ready, willing and able to so participate in the manner designated.

JOHN J. CAULFIELD

1. Cover - Because of White House experience and contacts, has decided to create a Washington based security consulting-investigative organization which would seek Republican corporations and law firms as clients.

2. Assignment - Receive and program all activities and

Page eight

assignments, including the New York City operation, act as liaison with selected White House staff before and during campaign for sensitive investigative needs. Liaison with Cabinet when necessary. Liaison with 1701 Pennsylvania Avenue operation on all security-investigative needs, Liaison with Republican National Committee in connection with their investigative needs (Nofziger). Liaison with the RNC on the programming of all security at the Republican National Committee.

JOSEPH WOODS

1. Cover - Since only engaged part time as a County Commissioner in Illinois and needing funds to support his large family (true enough!), has decided to become a principal in a potentially lucrative, Washington based, Republican oriented security consulting firm utilizing expertise in law enforcement (FBI - Sheriff Cook County) and political contacts nation-wide. Will seek to build the organization in the mid-west, taking advantage of the large influx of Republican big business into the Chicago area.

2. Assignment - In charge of all private security forces at the Republican National Convention. In charge all covert efforts (discuss) designed to preclude voting frauds in Illinois, Texas, etc. Liaison active and retired FBI agents, nation-wide, for discreet investigative support (Hoover also? - Evaluate). Liaison nation-wide with Republican State Chairmen for investigative support. Support New York City covert operation.

NOTE

It is interesting to report that Intertel made a lucrative offer to Joe Woods last week (\$30,000 per annum, stock options, etc.) indicating he would be in charge of their new Chicago office. This tack is viewed as an attempt to purchase White House prestige. In the author's judgment, the compartmentalized political hazards, previously indicated, would still constitute a real and present danger.

Page nine

VERNON (MIKE) ACREE - Deputy Commissioner IRS, Inspection Division

Mike is the highest ranking Republican career official in the Internal Revenue Service. A synopsis of his outstanding career is attached hereto. (TAB "B"). He is a strong Nixon loyalist and has so proved it to me, personally, on a number of occasions. His management and investigative expertise will be invaluable to the undertaking, especially in the financial investigative area - crucial in a campaign of this type.

1. Cover - Mike has decided to retire after 32 years of federal investigative service. He has witnessed the financial success of Intertel and has decided to join a small group of Republican oriented principals who wish to emulate and improve on the Intertel experience dealing only, however, with republican corporations and law firms.

2. Assignment - IRS information input, financial investigations, liaison federal law enforcement establishment nation-wide, preparation of reports, briefings to key Administration campaign figures on results. Support New York City operation.

#### CONSULTANT PERSONNEL

Under the cover of the corporate entity hiring Republican consultants to assist in meeting the needs of its clients, a medium for the likely required expansion of the covert aspects of the undertaking would be established in compartmentalized fashion, thereby minimizing any threats to exposure inherent in a large covert operation. The consultants would be brought on to perform ad hoc assignments on a case by case basis in any area or undertaking.

CORPORATE STAFF

As suggested, a bright young Nixon loyalist with attorney and business managerial credentials should be brought on board to take complete charge of the corporation's business requirements. He would function as a technician with little or no responsibility or knowledge regarding the covert aspects of the operation.

No candidates will be considered for this assignment until the concept receives a go. Anne Dawson, understandably, would be a key and valuable asset to this undertaking. Trudy Brown (presently in White House Security liaison with FBI) would, if willing and could be spared from her present duties, also be highly valuable. Any other administrative help brought on board would be of the same caliber as Anne and Trudy.

Page eleven

FUNDING

Reviewing the above proposed broad ranged responsibilities of Operation Sandwedge, it is clear that it would be impossible to judge, at this time, what total costs for such an undertaking would be involved. The major initial costs, of course, would relate to principal, management, technical and secretarial salaries, as well as office space and equipment in Washington and Chicago. It is expected that substantive additional costs would become evident as the requirements for effective operation come more clearly into focus.

What is obviously needed, therefore, is a funding technique which would enable the corporate cover to raise whatever monies would be required on a legitimate and painless basis. It is suggested that the business cover, indicated above, provides the ideal and proper framework to resolve this problem, as follows:

The overt security consulting services to be offered Republican corporations by the business entity would clearly be a deductible business expense. There are no IRS requirements dictating the amount, type or quality of service which must be performed for a given consulting fee. This is strictly a matter for negotiation between the client and the entity performing the service.

Thus, it is clear that if the new Corporate Security Consultants International firm were in a position to "negotiate" as many lucrative consulting agreements as required on an expandable, need basis with trustworthy Republican corporate giants, the funding of this effort could go smoothly forward with no direct financial connection to the Administration.



Page twelve

or Republican National Committee. Farther, the sensitive and often traceable area of political contributions would be eliminated as a hazard to this undertaking.

As indicated, funding for the proposed New York City operation would require special measures. There are some very discreet and viable approaches to this matter but, it is suggested that they be discussed on a private basis only.

#### CONCLUSION

This paper, then, is submitted with a view towards presenting, for review, a highly sophisticated approach to a critical aspect of the 1972 Presidential Campaign. It is suggested that the various subheadings indicated (SEE TAB "C") in the proposal provide a proper agenda after high level review for a meeting between the principals indicated and the officials charged with final decision.

It has been indicated that it is already very late for this proposed undertaking to be in review status - the authors concur. It is respectfully requested, therefore, that the highest priority attention be given this matter. We await your reply.

## EXHIBIT NO. 8

APR 22 1970

Randolph W. Thrower  
Commissioner

K. Martin Worthy (RM) KMW  
Chief Counsel

Disclosure of Income Tax Returns to the President

Further reference is made to your request for my opinion with respect to whether you have authority to disclose income tax returns to a member of the President's immediate staff. Under date of April 14, 1970, I furnished you with a brief summary opinion to the effect that there is no question about the President's right of access to income tax returns through a designated member of his staff. I then advised you that a more detailed opinion was in process of preparation.

The specific background concerns the disclosure by the Service of federal income tax returns to the Honorable Clark R. Mollenhoff, Deputy Counsel to the President, pursuant to the procedures and understanding outlined in your memorandum to Mr. Mollenhoff, dated September 18, 1969 (copy of which is attached as Exhibit A). You have advised me that at the time Mr. Mollenhoff discussed with you his access to designated federal income tax returns he indicated to you that he was acting under authority of the President.

Our more detailed study fully confirms my conclusion that there is no question that Mr. Mollenhoff acting on behalf of the President lawfully had the right of, and was lawfully given, access to federal income tax returns and related data.

Section 6103(a)(1) of the Internal Revenue Code of 1954 provides:

"(a) PUBLIC RECORD AND INSPECTION. --

- 2 -

"(1) Returns made with respect to taxes imposed by chapters 1, 2, 3, and 6 upon which the tax has been determined by the Secretary or his delegate shall constitute public records; but, except as hereinafter provided in this section, they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary or his delegate and approved by the President."

It would seem quite clear that under this statute you are fully authorized to disclose any return "made with respect to taxes imposed by" Chapter 1, relating to income taxes, "upon order of the President." In fact, by virtue of the provisions of Section 2 of Article II of the Constitution, which provides that "the President \*\*\* may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, \*\*\*," it would seem quite evident that as an officer of the Executive Branch of the Government, you may be required by the President to disclose to him any matter coming to your attention (or to that of your subordinates) in the performance of your official duties. "\*\*\* [I]n contemplation of law under our theory of Government, all the records of the executive departments are under the control of the President of the United States \*\*\*." H. Rept. 141, 45th Cong., 3 (1879).

Section 1 of Article II of the Constitution provides that "[t]he executive Power shall be vested in a President of the United States of America," and Section 3 of the same Article provides that "\*\*\* he shall take Care that the Laws be faithfully executed \*\*\*." It is quite apparent that the President cannot carry out these responsibilities in a nation of this size, or a Government of this size, entirely on his own, but must call upon others duly appointed to the Executive Branch to assist him in carrying out these duties. As early as Marbury v. Madison, 1 Cranch 137, 5 U.S. 60 (1803), the Supreme Court said:

- 3 -

"By the constitution of the United States, the president is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character and to his own conscience. To aid him in the performance of these duties, he is authorized to appoint certain officers, who act by his authority, and in conformity with his orders.

"In such cases, their acts are his acts; and whatever opinion may be entertained of the manner in which executive discretion may be used, still there exists, and can exist, no power to control that discretion." I Cranch 137 at 165, 5 U.S. 60 at 70.

This proposition has been repeatedly enunciated by the courts. See, e.g. Myers v. United States, 272 U.S. 52 (1926):

"The vesting of the executive power in the President was essentially a grant of the power to execute the laws. But the President alone and unaided could not execute the laws. He must execute them by the assistance of subordinates. This view has since been repeatedly affirmed by this Court.

"\*\*\* The highest and most important duties which his subordinates perform are those in which they act for him. In such cases they are exercising not their own but his discretion." 272 U.S. 52 at 117, 132.

It is also clear that even in the case of one who has no power to delegate, he may, without delegation exercise his authority through persons he appoints. See, for example, Surreyport Engraving Co., Inc. v. United States, 143 F. 2d 222 at 226 (5th Cir., 1944), citing Mechem on Agency, Vol. I, Section 304.

-4-

It should be noted that even in the case of heads of departments and other officers of the Government, of lesser stature than the President, they may authorize inspection of returns by their subordinates acting for them. See, for example, Regulations Sec. 301.6103(a)-1(f). The President would seem to have no lesser authority.

It would further seem quite clear that the President may relay any lawful order to you through his subordinates and that you have no choice but to comply therewith. It is common knowledge that orders to military and civilian personnel are frequently stated as being "By the direction of the President," though signed by his subordinates, and it has long been settled that such orders may be presumed to be of the same lawful effect as if delivered by the President in person. See, for example, Opinion of the Attorney General, 7 O.A.G. 453 (1855). It seems quite apparent from the statute that Congress intends that income tax returns be disclosed "upon order of the President" as he may direct.

It should be noted that Section 6103(a) (1) provides that income tax returns be open to inspection

"upon order of the President" and

"under rules and regulations prescribed by the Secretary or his delegate and approved by the President."

It has been suggested that the President himself can only require that returns be made available for inspection by complying with the "rules and regulations" referred to in this section. If this were so, the words in the statute "upon order of the President" would become meaningless since he obviously could provide by such "rules and regulations" for inspection by anyone. It is inconceivable that the President should be bound by such rules and regulations in prescribing the circumstances or manner in which returns are to be disclosed to a member of his staff.

-5-

for his use. Since any such rules and regulations are subject to revision or modification by the Secretary at any time with the approval of the President, and the Secretary is the subordinate of the President appointed to serve at the pleasure of the President, it cannot be believed that he should be limited by the requirements of any such rules and regulations or that Congress so intended.

You have furnished us a copy of a legal opinion dated April 9, 1970, to Mr. Lawrence F. O'Brien, Chairman, Democratic National Committee, by Mortimer M. Caplin (former Commissioner of Internal Revenue); Sheldon S. Cohen (former Chief Counsel and later Commissioner of Internal Revenue) and Mitchell Rogovin (formerly Assistant to the Commissioner and later Chief Counsel of the Internal Revenue Service). In their opinion they state that "a presidential request would presumably have to comply with the various requirements of the regulations" -- and specifically with Regulations Sec. 301.6103(a)-1(f). Such regulations provide for inspection of returns upon the application of the head of an executive department -- specifically making such inspection dependent upon "the discretion of the Secretary of the Treasury or the Commissioner of Internal Revenue or the delegate of either." To assume that a "presidential request" must comply with such regulations assumes that the Secretary of the Treasury or the Commissioner of Internal Revenue could frustrate a request of the President for returns -- in the face of the fact that the statutory provision says that they should be open for inspection on his order.

The statute as I interpret it, and as interpreted by my predecessors, is not the source of the right of the President to inspect returns, but merely sets forth the manner in which returns may be made available to other persons without Presidential order.

-6-

The opinion letter of Messrs. Caplin, Cohen, and Rogovin previously referred to states that:

"It has been suggested that since the employee in question acts as agent for the President in matters of investigation, no written request by the President is required. We are unaware of any theory of law which would support such an argument."

Although cases have not frequently arisen where disclosure to the President or someone acting for him was questioned, the Office of Chief Counsel has clearly and repeatedly taken the position that neither the statute nor the regulations limit such disclosure.

Prior to 1961 this office had apparently never addressed the problem. In 1961 the question first formally arose regarding disclosure to a special consultant to the President. While no opinion of Chief Counsel was written on the question, access to the returns by Mr. Bellino as Special Consultant to the President was clearly approved by various representatives of the Office of Chief Counsel. In a memorandum of March 23, 1961, to the General Counsel of the Treasury from Commissioner Caplin the following statement concerning the inspection of returns and the legality thereof was stated:

"On January 26 Mr. Bellino, Special Consultant to the President, called at my office and requested permission to inspect our files on - - - - and others. Although we had no precedent to guide us, we decided that Mr. Bellino, in his capacity as a representative of the President, could inspect our files without a written request. This reflects the view that Section 6103 of the Code specifically provides that returns shall be open to inspection upon order of the President, and since Mr. Bellino's official capacity constitutes him the representative of the President, the action taken is regarded as conforming to law. Based on this decision, we permitted Mr. Bellino to

- 7 -

inspect the files relating to - - - -. Since that time we have also permitted him to inspect tax returns and related documents pertaining to other persons."

Our files show that this memorandum was reviewed by the Director of the Enforcement Division in this office (then responsible for disclosure matters) and an Assistant Chief Counsel before being sent by the Commissioner to the General Counsel. It is our understanding that Mr. Bellino inspected files without written request at various times after the position was taken that he could have access to the returns under pertinent law. (See memorandum of May 23, 1961 to Robert H. Knight, General Counsel of the Treasury, from Mortimer Caplin, Commissioner, re: "Inspection of Returns by Congressional Committees," copy of which is attached as Exhibit B.)

Eighteen months later, in 1962, then Chief Counsel Hauser furnished an opinion to Commissioner Caplin, at his request, dealing with both the question of whether the President was limited by statute in his power to disclose to committees of Congress certain information required to be filed by exempt organizations with the Internal Revenue Service, and the further question of whether the President, in exercising such power, could act through a subordinate. After careful analysis of various authorities bearing on the questions, the opinion concluded that "the vesting of executive power in the President under the Constitution requires that he be entitled to all information relative to his control over the executive branch," and also that:

"\*\*\* an official in the Executive Branch when acting in line of duty acts for the President and actually exercises the President's discretion for him. His acts are considered to be the acts of the President, as he is and must be the President's alter ego in the matters



-8-

of the Executive Branch where the President is required by law to exercise authority." 1/

(See memorandum dated November 19, 1962, from Chief Counsel Hauser to Commissioner Caplin, and Memorandum of Law referred to therein and forwarded therewith, dated November 1, 1962, a copy of which is attached as Exhibit C.)

In January 1964, this office was again called upon for an opinion with respect to disclosure of returns to the President or someone acting for the President. President Johnson had issued Executive Order 11130 establishing a commission, with Chief Justice Warren as chairman, to investigate and report on the assassination of President Kennedy; the Executive Order contained no reference to disclosure or non-disclosure of tax information but merely indicated that all agencies and departments should furnish the Commission with such facilities, service and cooperation as might be requested. The opinion of this office, prepared in the Enforcement Division of this Office on January 6, 1964, concluded (1) that the executive order constituted authority for the Commission to examine the returns and (2) that, in any event, the Commission "acting as an 'arm' of the President," "in the President's stead," and "for the President" had full authority to examine the returns

1/ The opinion of Messrs. Caplin, Cohen and Rogovin, dated April 9, 1970, previously referred to, suggests that disclosure of returns in response to a presidential request, other than in accordance with Regulations Sec. 301.6103(a)-1(f), constitutes a misdemeanor under Secs. 7213 of the Internal Revenue Code (Title 26) and 1905 of the Criminal Code (Title 18). It may be noted that the opinion to Commissioner Caplin of November 19, 1962, referred to above, specifically concluded in this connection that, "As the President is the Chief in the chain of command in the Executive Branch of Government, it is clear that Section 1905, Title 18 United States Code, and Section 7213, Title 26 United States Code, are inapplicable to disclosures made to him."

without regard to the regulations and without the necessity of any further Presidential order. The opinion states in pertinent part:

"\*\*\* the provision in Sec. 6103(a)(1) for prescription of rules and regulations by the Secretary or his delegate is merely an authorization for facile implementation of a Presidential order rather than a restriction on Presidential authority.

"\*\*\* there can be no congressional restriction on the authority of the Commissioner to release information to the President.

"\*\*\* it is axiomatic that in the exercise of power of his office the President is not required to personally take care of day to day details but may, in his discretion, delegate certain functions to others. \*\*\* Manifestly, Sec. 6103(a)(1) could not have been designed to require the Secretary or his delegate and the President to prescribe and approve rules and regulations regarding a personal inspection of returns by the President. Such construction should apply equally to an inspection by the Commission acting for the President.

"\*\*\* The President, by virtue of his office, is the head of all executive departments and the inspection of returns by the head of the department is not in any real sense a disclosure. The same is true with respect to the President's delegate."

(See memorandum to General Counsel Belin from Acting Chief Counsel Hertzog, dated January 6, 1964, a copy of which is attached as Exhibit D.)

-10-

It is of interest to note that no attempt was thereafter made to comply with the requirements of Regulation Sec. 6103(a)-1(f) in that no request was received from Chief Justice Warren as head of the Commission but that requests were accepted from the General Counsel of the Commission. Your files indicate that on several occasions thereafter during 1964 various returns were furnished the Commission (presumably on the basis of the foregoing opinion) under the signature of Mr. Rogovin as Assistant to the Commissioner.

Thereafter a question arose as to whether the returns disclosed to the Warren Commission could be published by the Commission. This resulted in a request by Sheldon Cohen (who had meanwhile become Chief Counsel) to the Director, Legislation & Regulations Division of this Office, for its opinion as to whether the Commission had authority to inspect returns. The Legislation & Regulations Division advised Mr. Cohen by opinion on September 24, 1964, that it concurred in the January 6, 1964 opinion of the Enforcement Division, reiterating that:

"\*\*\* the Commission is the 'alter ego' of the President, and since there is no restriction on the President's authority to inspect tax returns, likewise there is no restriction on the right of the Commission, as his 'alter ego', to inspect tax returns within the scope of the Executive order."

(See memorandum to Chief Counsel Cohen from the Director, Legislation & Regulations Division, dated September 24, 1964, attached as Exhibit E.)

These prior opinions of my predecessors, insofar as they relate to the present question, seem to me to be correct as a matter of law. Thus, there would seem to be no question about the President's right of access to these returns through a designated member of his staff. While

- 11 -

as I indicated in my earlier summary opinion, there is no legal requirement that such requests be written, the procedure you have followed requiring that all requests be detailed in writing is procedurally preferable to accepting oral requests.

Very truly yours,

(Signed) K. Martin Worthy

K. MARTIN WORTHY  
Chief Counsel

KMW/mg/mah  
Enclosures

DATE	INITIATOR	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER
11/17/75	CC: [initials]	CC: [initials]					
	Revised 8/9/75						
	11/17/75	11/17/75					

## EXHIBIT NO. 9

DISCLOSE ON NEED-TO-KNOW BASIS ONLY

CP:C:D

July 24, 1969

MEMORANDUM FOR FILE:

SUBJECT: Activist Organizations Committee

In response to Assistant Commissioner Bacon's memorandum of July 18, 1969, the following persons attended the organizational meeting today:

Mr. Paul H. Wright	CP:C	Mr. Paul L. Kane	T:MS:EO
Mr. Donald F. Cowles	CP	Mr. James J. McGarty	CP:A
Mr. Charles E. Fink	D:O:P	Mr. Bernard L. Meenan	CP
Mr. William F. Gibney	CP:I:O	Mr. Richard T. Stockton	T:I:I
Mr. Richard M. Hahn	CC	Mr. Walter L. Stumpf	CP:AP:SA
Mr. Gilbert F. Haley	CP:I:O	Mr. Donald O. Virdin	CP:C:D
Mr. Thomas W. Hines	CP:AT		

The purpose of the meeting was to establish basic communications between the various functions of the Service and to furnish an overall picture of the purpose and sensitivity of this Committee. The following were the principal items mentioned:

1. This is an extremely important and sensitive matter in which the highest levels of government are interested and in which at least three Congressional committees are currently conducting investigations. In addition, the Internal Security Division, Department of Justice, and the Federal Bureau of Investigation have files on many of these organizations.
2. To indicate the type of organization in which we are interested, each person attending was furnished the memorandums to all Regional Commissioners dated July 14, 1969, and March 25, 1969, from Assistant Commissioner Bacon. These lists, which identified 77 specific organizations, will give some idea of the identity and importance of this project.
3. Reports which have been received in response to these memorandums from Regional Commissioners indicate that many Compliance activities have some facts about various organizations but there has not been coordination between Compliance activities or other parts of the Service to the extent that is necessary to insure that all Internal Revenue Service laws have been complied with. Alcohol, Tobacco and Firearms Division is conducting investigations of many of these organizations; the Intelligence Division has much material on others; the Audit Division has examined or investigated several of the organizations; and the Collection Division has failure to file investigations underway on others.

4. Some organizations should have filed income tax returns but have not done so; others may be liable for payroll tax returns but have failed to file.
5. Some of these organizations may be a threat to the security of the United States and one of our principal functions will be to determine the sources of their funds, the names of the contributors, whether the contributions given to the organizations have been deducted as charitable contributions, what we can find out generally about the funds of these organizations.
6. The Federal Bureau of Investigation has prepared monographs on many of these organizations and has files on most of them. That agency will be requested to furnish data to the Committee. Also, the Senate Committee on Government Operations has much information, including charts showing the organizations' structure, membership, and some indication as to the source of funds.
7. Notwithstanding the fact that we will cooperate with and obtain information from outside sources, this Committee will not conduct joint investigations. Our principal purpose will be to coordinate the activities within the Compliance organization to insure that all information available throughout the United States is collated and made available to the appropriate Compliance division conducting the investigation of the organization.
8. A review of the files assembled in the National Office on some of these organizations shows Communistic infiltration and indicates that there is a proliferation of the activities of some organizations; that is, they have many local units and may have suborganizations under other names.

The Committee plans to start functioning about August 1, 1969, and its principal actions will be:

1. To assemble the data that has been received and will be received from the regions and various National Office functions.
2. Analyze the data to determine what action should be taken.
3. Disseminate the information to the appropriate Compliance activity for appropriate field investigation, if necessary. In doing this, the Committee will not take over the function of any Compliance activity. Thus, if the principal thrust of the investigation should be by Alcohol, Tobacco and Firearms Division, that Division will be furnished the data and will be expected to take such action as

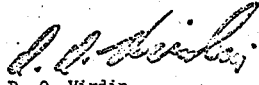
- 3 -

may be necessary in coordination with other Compliance activities. If the matter appears to be one for Intelligence or Audit, the Division having the principal interest in the matter will assume the primary field investigative function.

4. All parts of the Service are interested. Thus, we may have some of these organizations who claim to be political parties and we will need the Chief Counsel's guidance and advice because of the extremely delicate and sensitive nature, and the unanswered questions, as to what should be done. Data Processing may be asked to use their resources, if necessary, where filing records are needed or where it is found necessary to use their data processing capabilities in this work. The Office of International Operations is affected because some of these organizations have members or activities outside the United States. The Appellate Division already has some cases pending, and it is expected that many others may reach that level. Thus, we cannot say that any part of the Service will not be asked to participate actively in this matter.
5. It was pointed out that although the fact that this Committee exists will become known, its activities should be disclosed generally only to those persons who need to know, because of its semi-secretive nature. Indeed, action is being taken to obtain top secret clearance for the full-time Committee members. Our files will be protected with usual intelligence type security. We do not want the news media to be alerted to what we are attempting to do or how we are operating because the disclosure of such information might embarrass the Administration or adversely affect the Service operations in this area or those of other Federal agencies or Congressional committees.
6. Because of the type of organizations involved, we would expect the Exempt Organizations Branch of the Audit Division to play an active part. Also, the Income Tax Division and the Miscellaneous and Special Provisions Tax Division will also be active participants. We estimate that it will take the four Divisions represented on the Committee and their secretarial and clerical support about four months to assemble the data and to really initiate actions that we plan to take.
7. The permanent Committee will be composed of Mr. Paul H. Wright, Chairman, CP:C; Mr. William F. Gibney, CP:I:O; Mr. James G. McGarty, CP:A; and a member to be designated by Alcohol, Tobacco and Firearms Division.
8. In addition to the permanent members, each activity represented at this organizational meeting was asked to advise the Chairman as to the permanent representative who would be contacted for advice, coordination, special meetings, etc.

- 4 -

9. It is emphasized that this Committee will only coordinate and recommend action to be taken. Each division will still do its own work. Thus, the Committee will recommend to the functional division that it has developed certain information which appears to warrant investigation, but it is up to the division concerned to take any action deemed necessary.
10. The permanent Committee will meet in Room 3049 at 9:30 A.M., Tuesday, July 29, 1969, to discuss generally what we plan to do with Mr. Philip R. Manuel, a representative of the Senate Committee on Government Operations. Other members in attendance today may participate if they desire.
11. Because we have limited resources in money and manpower, we must make the most effective use of our information. We cannot waste our efforts; we have to hit the high spots. The tentacles of some of these organizations are so far reaching that it would take an exorbitant amount of our resources if we did everything that could be done. Thus, the decisions concerning any field investigations or other activities must be made with this thought in mind. The type of organization in which we are interested may be ideological, militant, subversive, radical, or other, and one of our first problems will be to define and to determine what kind of organization we are interested in. We have a general idea as set forth in the lists which have been given you, but we have not made any final decision.
12. In effect, what we will attempt to do is to gather intelligence data on the organizations in which we are interested and to use a Strike Force concept whereby all Compliance divisions and all other Service functions will participate in a joint effort in our common objective.
13. As soon as permanent space has been assigned, all members will be advised promptly. Meanwhile, any questions should be referred to Mr. Paul H. Wright, Chairman, on Extension 3897, or may be sent to Room 5242.

  
D. O. Virdin

NOTE: A copy of this memorandum has been delivered to each person attending the meeting.



## EXHIBIT No. 10

MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

October 17, 1969

MEMORANDUM FOR:

H. R. HALDEMAN

FROM:

J. S. MACGRUDER

RE:

The Shot-gun versus the Rifle

Yesterday you asked me to give you a talking paper on specific problems we've had in shot-gunning the media and anti-Administration spokesmen on unfair coverage.

I have enclosed from the log approximately 21 requests from the President in the last 30 days requesting specific action relating to what could be considered unfair news coverage. This enclosure only includes actual memos sent out by Ken Cole's office. In the short time that I have been here, I would gather that there have been at least double or triple this many requests made through various other parties to accomplish the same objective.

It is my opinion this continual daily attempt to get to the media or to anti-Administration spokesmen because of specific things they have said is very unfruitful and wasteful of our time. This is not to say that they have not been unfair, without question many situations that have been indicated are correct, but I would question the approach we have taken. When an editor gets continual calls from Herb Klein or Pat Buchanan on a situation that is difficult to document as to unfairness, we are in a very weak area. Particularly when we are talking about interpretation of the news as against factual reporting.

The real problem that faces the Administration is to get to this unfair coverage in such a way that we make major impact on a basis which the networks-newspapers and Congress will react to and begin to look at things somewhat differently. It is my opinion that we should begin concentrated efforts in a number of major areas that will have much more impact on the media and other anti-Administration spokesmen and will do more good in the long run. The following is my suggestion as to how

We can achieve this goal:

1. Begin an official monitoring system through the FCC as soon as Dean Birch is officially on board as Chairman. If the monitoring system proves our point, we have then legitimate and legal rights to go to the networks, etc., and make official complaints from the FCC. This will have much more effect than a phone call from Herb Klein or Pat Buchanan.
  2. Utilize the anti-trust division to investigate various media relating to anti-trust violations. Even the possible threat of anti-trust action I think would be effective in changing their views in the above matter.
  3. Utilizing the Internal Revenue Service as a method to look into the various organizations that we are most concerned about. Just a threat of a IRS investigation will probably turn their approach.
  4. Begin to show favorites within the media. Since they are basically not on our side let us pick the favorable ones as Kennedy did. I'm not saying we should eliminate the open Administration, but by being open we have not gotten anyone to back us on a consistent basis and many of those who were favorable towards us are now giving it to us at various times, i.e., Ted Lewis, Hugh Sidiy.
  5. Utilize Republican National Committee for major letter writing efforts of both a class nature and a quantity nature. We have set-up a situation at the National Committee that will allow us to do this, and I think by effective letter writing and telegrams we will accomplish our objective rather than again just the shot-gun approach to one specific Senator or one specific news broadcaster because of various comments.
- I would liken this to the Kennedy Administration in that they had no qualms about using the power available to them to achieve their objectives. On the other hand, we seem to march on tip-toe into the political situation and are unwilling to use the power at hand to achieve our long term goals which is eight years of a Republican Administration. I clearly remember Kennedy sending out the FBI men to wake-up the Steel Executives in the middle of the night. It caused an uproar in certain cases but he achieved his goal and the vast majority of the American public was with him. If we convince the President that this is the correct approach, we will find that various support groups will be much more productive and much more cooperative; and at the same time I think we will achieve the goals this Administration has set out to do on a much more meaningful planned basis.

## PRESIDENT'S REQUEST --

TO:	ITEM:	DATE:
P. Flanigan	President's request that you take action to counter Dan Rather's allegation that the Hershey move.. was decided upon because of the moratorium. (Log 1733)	October 17
J. Ehrlichman	President's request that you talk to Ted Lewis concerning the present status of discipline within the Administration. (Log 1699)	October 15
P. Buchanan	President's request for a report on what actions were taken to complain to NBC, <u>Time</u> and <u>Newsweek</u> concerning a recent article coverage on the Administration. (Log 1688)	October 14
H. Klein	President's request for letters to the editor of <u>Newsweek</u> mentioning the President's tremendous reception in Miss. and last Sat. Miami Dolphin football game. (Log 1627)	October 10
H. Klein	President's request that you take appropriate action to counter biased TV coverage of the Adm. over the summer. (Log 1644) CONFIDENTIAL	October 14
H. Klein	President's request that you ask Rogers Morton to take action to counter Howard K. Smith's remarks concerning the three House seats lost by the GOP this year. (Log 1558)	October 8

## PRESIDENT'S REQUEST --

TO:	ITEM:	DATE:
P. Buchanan	President's request that appropriate columnists be informed of the extemporaneous character of Presidential press conferences. (Log 1551)	October 10
H. Klein	President's request that you demand equal time to counter John Chancellor's commentary regarding the Haynsworth nomination. (Log 1559)	October 7
H. Klein	President's request for a report on what action is taken concerning Sen. Muskie's appearance on the "Merv Griffin Show."	October 8
A. Butterfield	President's request for a report what resulted from our PR efforts following up the Friday Press Conference. (Log 1496)	October 3
H. Klein	President's request that we have the CHICAGO TRIBUNE hit Senator Percy hard on his ties with the peace group. (Log 1495) CONFIDENTIAL	October 3
H. Klein	President's request for letters to the editor regarding <u>Newsweek's</u> lead article covering the President's U.N. speech. (Log 1443)	September
H. Klein	President's request that we counter Ralph Nader's remarks regarding Virginia Knauer accessibility to the President. (Log 1404)	September

## PRESIDENT'S REQUEST --

TO:	ITEM:	DATE:
H. Klein Ron Ziegler	President's request that you attack Life Magazine's editorial accusing the Administration of creating a Coherence Gap. (Log 1366)	September 7
H. Klein	President's request that you contact Howard K. Smith and give him the true record on what the Administration has done. (Log 1367)	September 7
A. Butterfield	Sen. Kennedy's Boston speech alleging that the war in Vietnam remains virtually unchanged. (Log 1292)	September 7
P. Flanigan	Ralph Nader's charge that the President pays little attention to consumer affairs. (Log 1293)	September 7
Dr. Kissinger	Article by Jack Anderson which alleges that some U. S. officers in Vietnam favor Thieu's hard line over the President's moderate policy and are sabotaging the truce efforts. (Log 1281)	September 7
H. Klein	President's request that you inform Walter Trohan about our substantive programs and that you place the blame for inaction on the democratic Congress. (Log 1246)	September 7

## PRESIDENT'S REQUEST --

<u>TO:</u>	<u>ITEM:</u>	<u>DATE:</u>
J. Ehrlichman	President request for a report on possible answers to Evans-Novak charge of an Administration retreat on tax reform. (Log 1224)	September 23
Dr. Kissinger	President's request for a report on Walter Cronkite's comment that the South Vietnamese did not observe the truce resulting from Ho Chi Minh's death. (Log 1154)	September 16

RECORD OF TIME OF ARRIVAL AND DEPARTURE FROM BUILDINGS (After Normal Duty Hours)				BUILDING	FIELD OFFICE	MONTH	YEAR
				215 9th St NW	6-11	MAY	72
DATE	SIGNATURE	AGENCY OR FIRM	TIME OF ENTERING	ROOM NO.	TIME OF DEPARTURE	SIGNATURE	REMARKS
a	b	c	d	e	f	g	h
5-18-72		Second Relief				A. Coleman	
11/18	T. R. Brown	CIA	1035	402	1055	T. R. Brown	170
11/18	T. R. Brown	CIA	1035	402	1055	T. R. Brown	165
	J. McGee	CRP	1030	211	1130	J. McGee	4V
	<del>J. McGee</del>	<del>CRP</del>	1045	10th	1130	<del>J. McGee</del>	100
	E. H. Hays	BRITISH EMBASSY	1050	10th	1055	E. H. Hays	147
	R. R. Roper	CIA	1055	8th	358P	R. R. Roper	179
	J. R. Roper	CIA	1100	830	1104	J. R. Roper	31
	J. R. Roper	Blackstone House	1155	203	14:00	J. R. Roper	91
	R. R. Roper	I.S.D.	12:00	110	12:30	R. R. Roper	76
	R. R. Roper	Throne	12:05	403	12:58	R. R. Roper	131
	R. R. Roper	CIV	1:00pm	509	2:30pm	R. R. Roper	72
	R. R. Roper	Eng	1:15	11		R. R. Roper	36
	R. R. Roper	CIA	146	910	1557	R. R. Roper	147
	D. D. Dyer	CIA	146	910	1557	D. D. Dyer	145
	D. D. Dyer	I.S.D.	155	412		D. D. Dyer	174
	J. R. Roper	Spa	155	802	158	J. R. Roper	76
	J. R. Roper	CIV	2:15	10th	2:40	J. R. Roper	71

GENERAL SERVICES ADMINISTRATION

GSA FORM 137  
SEP 70

EXHIBIT NO. 11

273

RECORD OF TIME OF ARRIVAL AND DEPARTURE FROM BUILDINGS (After Normal Duty Hours)				BUILDING		FIELD OFFICE	MONTH	YEAR
				315	9 <sup>th</sup> St	CC-6	MAY	72
DATE	SIGNATURE	AGENCY OR FIRM	TIME OF ENTERING	ROOM NO.	TIME OF DEPARTURE	SIGNATURE	REMARKS	
5-25-72		SECOND				P.O. -		
	T. B. Ecker	CIA	6:00	5th	8:17		26	
	J. Phoney	General ECR	9:25	10 <sup>th</sup>	11:35	J. Phoney	96	
	J. Phoney	General ECR	9:38	10 <sup>th</sup>	11:35	J. Phoney	69	
05/25	J. W. BIGGS	FBI	09:30	8B	10:50	J. W. Biggs	145	
	R. K. W. [unclear]	CRK	9:40	10 <sup>th</sup>	10:30	R. K. W. [unclear]	22	
	J. E. [unclear]	NIA	11:00	9th	11:05	J. E. [unclear]	5155	
	J. M. [unclear]	D.C. - DOD	11:04	7 <sup>th</sup>	10:07	J. M. [unclear]	149	
	M. J. [unclear]	HFOST	10:50	9th	11:35	M. J. [unclear]	163	
	C. Carbell	BE	10:45	10 <sup>th</sup>	10:50	C. Carbell	175	
	J. B. Balle	CIA	10:46	9th	11:55	J. B. Balle	141	
	R. K. [unclear]	DIA	11:15	403	11:18	R. K. [unclear]	129	
	J. W. [unclear]	Coca Cola	12:15	5th	12:24	J. W. [unclear]	72	
	B. [unclear]	Boonville	12:12	5th	12:24	B. [unclear]	63	
	M. J. [unclear]	FBI	12:20	6	12:45	M. J. [unclear]	66	
	J. [unclear]	FBI	1:15	71		J. [unclear]	71	
	J. [unclear]	CRP	1:25	319	2:20	J. [unclear]	184	
	R. Hainston	CRP	1:25	319	2:20	R. Hainston	470	

GENERAL SERVICES ADMINISTRATION

GSA FORM 139



RECORD OF TIME OF ARRIVAL AND DEPARTURE FROM BUILDINGS  
(After Normal Duty Hours)

BUILDINGS

315 9th St

FIELD OFFICE

60-1

MONTH

MAY

YEAR

72

DATE	SIGNATURE	AGENCY OR FIRM	TIME OF ENTERING	ROOM NO.	TIME OF DEPARTURE	SIGNATURE	REMARKS
5-31-72	Second		8:15	100	11:00	P. R. [Signature]	
6/1	B. [Signature]	Smith [Signature]	8:30	910	9:35	B. [Signature]	71
	Phyllis [Signature]	Dept. of Justice	8:45	3rd	5:30	Phyllis [Signature]	145
	W. [Signature]	Western Union	9:10	320	10:05	W. [Signature]	78
	J. K. [Signature]	NY Times	9:20	402	10:00	J. K. [Signature]	6
	Ritter	Papad	10:10	897	11:00	R. Ritter	95
	R. Houston		10:15	4th Flr	10:30	Robert Houston	41
	W. [Signature]	NSA	10:15	9th Flr	10:17	W. [Signature]	133
	R. [Signature]	EEIC	10:15	325	10:30	R. [Signature]	60
	J. [Signature]	TAGC	10:24	9th Flr	10:27	J. [Signature]	152
	R. [Signature]	DTA	10:30	402	10:35	R. [Signature]	95-7
	J. [Signature]	CT-4	10:40	8th	10:45	J. [Signature]	170
	R. [Signature]	ISA	10:53	313	5:37	R. [Signature]	81
	R. [Signature]	CGI	11:05	9th	11:10	R. [Signature]	149
	P. [Signature]	Eastern Union	11:05	110	11:35	P. [Signature]	85
	M. [Signature]	IBM	11:29	602	11:30	M. [Signature]	48
	A. [Signature]	Gul	11:40	1077	11:45	A. [Signature]	96
	J. [Signature]	Com [Signature]	12:12	100	12:12	J. [Signature]	91

RECORD OF TIME OF ARRIVAL AND DEPARTURE FROM BUILDINGS (After Normal Duty Hours)				BUILDING 315 9th St		FIELD OFFICE CO-1	MONTH June	YEAR 72
DATE a	SIGNATURE b	AGENCY OR FIRM c	TIME OF ENTERING d	ROOM NO. e	TIME OF DEPARTURE f	SIGNATURE g	REMARKS h	
6-2-72	SECOND							
	Stump P	CIA	8:50	10	10:00	Stump P	51	
	Chinn	FBI 70	8:55	702	5:31	Chinn	68	
	Bathkay	ISD	9:10	216	5:20	Bathkay	59	
	J. McGary Jr	AFR	9:20	308	10:10	McGary Jr	171	
	J. Monahan	USSS	9:35	4th	3:40	J. Monahan	173	
	W. E. Mullen	JCS	9:40	8th	10:25	W. E. Mullen	157	
	W. F. Gentry	REVEN	9:45	8th	10:25	W. F. Gentry	163	
	T. V. Segal	FBI	9:55	10th			171	
	L. H. Harrison	FBI	9:55	10th	11:35	L. H. Harrison	149	
	Chas. E. Brown	FBI	9:55	10th	11:35	Chas. E. Brown	81	
	L. Dickson	N.S.A.	10:02	9th	10:07	L. Dickson	41	
	Bryant, Ella		10:20	916	11:00	Bryant, Ella	7174	
	Ridgely, Tony		10:20	916	11:00	Ridgely, Tony	-	
	E. L. Harrison	ISD	10:35	124	10:45	E. L. Harrison	75	
	J. S. Lawrence	DIA	10:37	402	12:00	J. S. Lawrence	139	
	W. F. Gentry	CIA	10:43	9th	10:48	W. F. Gentry	118	
	W. F. Gentry	AFOSI	10:45	932	11:20	W. F. Gentry	141	

GENERAL SERVICES ADMINISTRATION

GSA FPMR 139

## EXHIBIT No. 12

THE WHITE HOUSE  
WASHINGTONEYES ONLY

December 30, 1971

MEMORANDUM FOR:

JOHN DEAN

FROM:

CHUCK COLSON *MC*

The attached is much too hot for me to handle. Smathers called me, I assumed, just to talk politics. The moment he began to get into the subject I turned on the recorder. Hence you have the full transcript attached.

Obviously he makes a very good point and I would assume if there is anything we can do properly, we should. On the other hand, in view of the personalities involved here I would think this has to be handled with extreme care. I assured Smathers I would get back to him quickly, so I would appreciate your earliest advice as to what we should do. Please discuss with me before getting this too far along. I do think, however, in view of Smathers' decision to support the President next year that we had better attend to this and not let it slip.

For obvious reasons, the attached should be used only by you and left in the form it is in.

EYES ONLY

Conversation with George Smathers, December 30, 1971

S: Anybody with whom you talked about this... Here is what occurred to me. It involves a case by a man by the name of Calvin Kovens. He was convicted about 1963 for having borrowed money from the Teamsters Union and he borrowed more than he actually spent and the allegations were generally that they had made a kick-back of some kind to Hoffa and he was one of the victims of Bobby Kennedy. Anyway, they fought the case for a long time, Calvin Kovens is a very prominent Jewish citizen here in Miami. He's been president of the Miami Beach Kiwanis Club, head of the United Fund for the whole area, he's headed the Jewish Greater Miami Federation, etc. Anyway, to make a long story short, he finally had to go to jail at Egman Field. He got an A32 sentence which meant the judge said, well any time you want to turn him out it's up to the Parole Board. I personally am not a criminal lawyer or anything and don't know my ass from third base about half that stuff, but anyway, I took his case before the Parole Board and the Parole Board granted him a parole beginning, however, this was at the last meeting of the Parole Board, where they turned Hoffa down and Bobby Baker and all the others. They agreed to hear our case and they granted parole. They said, however, it would begin May 1, the order read, "We grant parole for judgment, parole is granted to begin May 1, 1972" so that meant he had to serve 4 more months. Now, what's happened is this. In the meantime, this fellow's had a very serious heart attack and the doctor out at Egman Air Force Base, where he is, which is also a maximum freedom prison outfit, and the head cardiologist out there, Major Poper, as well as the Superintendent of the prison, both will say that they think the fellow ought to be released to go get some better medical attention. He's going to be released anyway in May. The Parole Board has already said he's out. Now, I was talking with Bebe about it and said, "Bebe, it looks like to me that this would be a pretty good thing to do." There are no minuses, the guy has already been paroled except for May, he's the most popular Jew in Dade County, South Florida; the fellow I had speak for him before the Parole Board is a guy named Rabbi Irving Lehrman who is the President of the National Rabbinical Association out in New York. In other words, he's the head Jew for, the head Rabbi for all the Rabbis in the United States. Now, he appeared before the Parole Board on behalf of Kovens. So, everybody is for this guy and there's nobody, under the circumstances, who would do anything but applaud a move by the President at this point to go ahead and say, "look, I'm going... the Parole Board said he could get out on May 1 and in light of the fact that he's had this heart attack which Major Poper has, the head cardiologist, said he needed some additional treatment, we're going to let him out". The President would do nothing but gain supporters, and that doesn't mean he's going to get a lot of Jewish vote down here; I never got it except when I ran for Congress the first time, but I never got it after that. However, I always did get some. But this I know would at least give the President, and those are going to help him in this area, a very strong basis of going to the Jewish community and saying, "For God Sakes, the one guy that went to bat for him was the President when he had this sickness", and then the President is totally defended because he gets, well

2.

the Parole Board has already granted him release as of May 1, 1972, he was serving a three year sentence and when he had 18 months left to go, after May, they let him out on May 1 and since then he's had the heart attack. I think there are some pluses in it and Bebe said... I think he ought to do it. I said, I agree, there's no negatives on this side, it's all pluses.

C: I don't know how mechanically it works, George, whether once the Parole Board has made a decision and has taken jurisdiction that way, whether it's in or out of the President's hands, but in any event let me check into it with the fellows who will know and...

S: Let me just say this. The Parole Board, I'm sure of this, denied Hoffa the hearing, they wouldn't even hear him and the President went ahead and released him anyway, so I'm sure the President can do it and I'm sure, actually, Chairman George Reed would probably approve of it...

C: Well, that's the thing I want to find out. If it's done that way it's the probably quickest and simplest. But, as I say, I'm not very familiar with this... how the process works...

S: Me neither. I've never been over there before in my life, I told them, and didn't know if I'd ever be there again. I certainly hoped I wouldn't and certainly not for any friend or myself. Anyway, Chuck, I really think that politically it's a very astute thing to do and it would not do anything but get, gain credit and commendation for the President. I can guarantee that. There's no backlash to this at all.

C: Let me see what I can do with it George. I'll check right into it this morning. Delighted you're going to be with us and on the team next year.

S: Well, I will be.

C: That's terrific. Who do you think is going to win the Florida Democratic Primary?

S: Well, I suspect now that you've got Lindsay, and McGovern and Gene McCarthy. Gene has not said whether he's going to enter it or not, but if he comes down here it's going to be so screwed up, frankly, it will be meaningless. They keep screwing it up and if Wallace runs as a Democrat, which I hope he does, so that will keep him from running as an independent. Wallace, could actually come out with the most votes. It will be so divided -- Wallace with a 14 or 15 percent vote might have more votes than anybody.

C: It would be a setback to Muskie wouldn't it?

3.

S: Be a terrible setback to Muskie. Everyone guy that gets in hurts Muskie and Humphrey coming in is going to hurt him because Muskie thinks he's going to carry down here in the South end, but Muskie's not carry I don't believe. I think Humphrey is going to get a hell of a lot of votes down here in Dade. Now Jackson will get most of the votes -- unless Wallace runs -- outside of here from let's say Palm Beach north, Jackson will do great.

C: And Jackson will do well with the Jewish vote.

S: Well, Humphrey is going to cut into that a lot.

C: It will be an interesting one to watch.

S: It really will be and that crazy Hartke said he might come down. I don't know. He's one that really needs to go to a psychiatrist.

C: God, you'd think a guy would be happy to sit where he is, but...

S: You know, the polls show that Lindsay can beat him in Indiana as a Favorite Son. Lindsay!

C: Lindsay knows how to manipulate that media.

S: Lindsay is great with it. That's what he's got going for him. And they love him and he handles it so beautifully...

C: ..Doesn't have much else going, but he's got that going. Well, I list getting him out of the Republican Party one of our major accomplishments this year.

S: I thought that was a great thing and to get him over there with the Democrats was double. If he'd become an Independent it would have been tough, but to get him in there where he is now, he just really screwed it up good.

C: Well, good to talk to you George, my friend and I'll go to work on this right away.

S: I see your friend John Haldeman sitting out here, but He's a funny fellow, we just say hello and that's all. I hardly know him. I don't mean funny, but he's very close, very unregardious.

C: Yea, that's the way Bob operates, cause he's got so goddamned much he's got to do.

S: I know it, but anyway, Chuck, this can do nothing but help if there's some way mechanically it can be done. I guarantee it will help and I guarantee it won't hurt.

C: Alright, let me get to work on it.

## EXHIBIT No. 13

✓ FOR: HERB KLEIN

FROM: CHUCK COLSON

FYI - EYES ONLY, PLEASE

September 25, 1970

MEMORANDUM FOR H. R. HALDEMAN

The following is a summary of the most pertinent conclusions from my meeting with the three network chief executives.

1. The networks are terribly nervous over the uncertain state of the law, i.e., the recent FCC decisions and the pressures to grant Congress access to TV. They are also apprehensive about us. Although they tried to disguise this, it was obvious. The harder I pressed them (CBS and NBC) the more accommodating, cordial and almost apologetic they became. Stanton for all his bluster is the most insecure of all.
2. They were startled by how thoroughly we were doing our homework -- both from the standpoint of knowledge of the law, as I discussed it, but more importantly, from the way in which we have so thoroughly monitored their coverage and our analysis of it. (Allin's analysis is attached. This was my talking paper and I gave them facts and figures.)
3. There was unanimous agreement that the President's right of access to TV should in no way be restrained. Both CBS and ABC agreed with me that on most occasions the President speaks as President and that there is no obligation for presenting a contrasting point of view under the Fairness Doctrine (This, by the way, is not the law -- the FCC has always ruled that the Fairness Doctrine always applies -- and either they don't know that or they are willing to concede us the point.) NBC on the other hand argues that the fairness test must be applied to every Presidential speech but Goodman is also quick to agree that there are probably instances in which Presidential addresses are not "controversial" under the Fairness Doctrine and, therefore, there is no duty to balance. All agree no one has a right of "reply" and that fairness doesn't mean answering the President but rather is "issue oriented." This was the most important understanding we came to. What is important is that they know how strongly we feel about this.

4. They are terribly concerned with being able to work out their own policies with respect to balanced coverage and not to have policies imposed on them by either the Commission or the Congress. ABC and CBS said that they felt we could, however, through the FCC make any policies we wanted to. (This is worrying them all.)
5. To my surprise CBS did not deny that the news had been slanted against us. Paley merely said that every Administration has felt the same way and that we have been slower in coming to them to complain than our predecessors. He, however, ordered Stanton in my presence to review the analysis with me and if the news has not been balanced to see that the situation is immediately corrected. (Paley is in complete control of CBS -- Stanton is almost obsequious in Paley's presence.)
6. CBS does not defend the O'Brien appearance. Paley wanted to make it very clear that it would not happen again and that they would not permit partisan attacks on the President. They are doggedly determined to win their FCC case, however; as a matter of principle, even though they recognize that they made a mistake, they don't want the FCC in the business of correcting their mistakes.
7. ABC and NBC believe that the whole controversy over "answers" to the President can be handled by giving some time regularly to presentations by the Congress -- either debates or the State-of-The-Congress-type presentations with both parties in the Congress represented. In this regard ABC will do anything we want. NBC proposes to provide a very limited Congressional coverage once or twice a year and additionally once a year "loyal opposition" type answers to the President's State of the Union address (which has been the practice since 1966). CBS takes quite a different position. Paley's policy is that the Congress cannot be the sole balancing mechanism and that the Democratic leadership in Congress should have time to present Democratic viewpoints on legislation. (On this point, which may become the most critical of all, we can split the networks in a way that will be very much to our advantage.)



# Conclusion:

I had to break every meeting. The networks badly want to have these kinds of discussions which they said they had had with other Administrations but never with ours. They told me anytime we had a complaint about slanted coverage for me to call them directly. Paley said that he would like to come down to Washington and spend time with me anytime that I wanted. In short, they are very much afraid of us and are trying hard to prove they are "good guys."

These meetings had a very salutary effect in letting them know that we are determined to protect the President's position, that we know precisely what is going on from the standpoint of both law and policy and that we are not going to permit them to get away with anything that interferes with the President's ability to communicate.

Paley made the point that he was amazed at how many people agree with the Vice President's criticism of the networks. He also went out of his way to say how much he supports the President, and how popular the President is. When Stanton said twice as many people had seen President Nixon on TV than any other President in a comparable period, Paley said it was because this President is more popular.

The only ornament on Goodman's desk was the Nixon Inaugural Medal. Hagerty said in Goldenson's presence that ABC is "with us." This all adds up to the fact that they are damned nervous and scared and we should continue to take a very tough line, face to face, and in other ways.

As to follow-up, I believe the following is in order:

1. I will review with Stanton and Goodman the substantiation of my assertion to them that their news coverage has been slanted. We will go over it point by point. This will, perhaps, make them even more cautious.
2. There should be a mechanism (through Herby or me) every time we believe coverage is slanted whereby we point it out either to the chief executive or to whomever he designates. Each of them invited this and we should do it so they know we are not bluffing.
3. I will pursue with ABC and NBC the possibility of their issuing declarations of policy (one that we find generally favorable as to the President's use of TV). If I can get them to issue such a policy statement, CBS will be backed into an untenable position.

4. I will pursue with Dean Burch the possibility of an interpretive ruling by the FCC on the role of the President when he uses TV, as soon as we have a majority. I think that this point could be very favorably clarified and it would, of course, have an inhibiting impact on the networks and their professed concern with achieving balance.

5. I would like to continue a friendly but very firm relationship whenever they or we want to talk. I am realistic enough to realize that we probably won't see any obvious improvement in the news coverage but I think we can dampen their ardor for putting on "loyal opposition" type programs.

I have detailed notes on each meeting if you'd like a more complete report.

Charles W. Colson

## EXHIBIT No. 14

KEN RIETZ

[474-2]

November 23, 1971

MEMORANDUM FOR:

JEE S. MAGRUDER

FROM:

KEN RIETZ

ACTION is an agency that we should be able to use politically. It has a good image among young people, is in direct day-to-day contact with them and is unencumbered by a lot of bureaucratic structure.

We should hold a meeting soon with Blatchford and suggest:

- 1) He do a lot of speaking on campuses and in high schools. He identified well with younger people and has the kind of program they like to hear about.
- 2) We use their recruiters (who talked to 450,000 young people last year), advertising program, public relations effort, and public contact people to sell the President and the accomplishments of the Administration. We should be involved and aware of everything from the scheduled appearances of ACTION's recruiters to the format and content of its advertising

AGREE \_\_\_\_\_

DISAGREE \_\_\_\_\_

COMMENT \_\_\_\_\_

## EXHIBIT No. 15

MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

October 11, 1969

MEMORANDUM FOR: MR. MAGRUDER

Would you please make sure that a hundred telegrams are sent to former Vice President Humphrey commending him for his courageous stand and thanking him for supporting the President in his statement yesterday. *where his address*

These telegrams should be sent from various points around the country and be worded individually. *Humphrey* *Mishkin*

Also would you get with Nofziger and work out having people here at the White House assigned to Goodell, Mathias and Percy. Let me know who these people are today. Each of these people will be responsible to work out a program over the next week for sending letters and telegrams, and making telephone calls to the Senators, blasting them on their consistent opposition to the President on everything he is trying to do for the country. This program needs to be subtle and worked out well so that they receive these items from their home districts as well as other points around the country.

LH

H. R. HALDEMAN

*Nofziger - will contact Apple  
editorial in Illinois for  
Percy. Also will contact  
Mathias - Goodell combination  
in both  
Stan Olson - Jumbach*

## MEMORANDUM

## THE WHITE HOUSE

WASHINGTON

October 14, 1969

MEMORANDUM FOR: H. R. HALDEMAN

From: J. S. Magruder

Subj: Campaign re Goodell, Mathias and Percy

We are doing the following regarding our proposed program on Senators Goodell, Mathias and Percy:

On Senator Percy we have a group in Illinois and in other parts of the country, who are sending telegrams and letters to him criticizing him on his view particularly on the war but also on all the issues that he seems to disagree with the President. This program I think will be particularly effective in this case, because we have many people who worked in the Percy campaign who are doing this and are known by the Senator to be legitimate Republicans.

*W. Lawrence  
Copies?*

Regarding Goodell and Mathias, I would recommend the following:

In discussing this situation with Stan Blair, he indicated that there was a meeting held in Baltimore between Mathias and some of his principal contributors. As a result of this meeting, Blair believes we are making some progress with the Senator and that a campaign along the lines we have mentioned would not only be unproductive but perhaps counter-effective.

*Goodell's  
the  
wrong  
approach  
Mathias!*

Goodell is also another question. Because of the active campaign for Mayor in New York, it is the feeling of Tom Houston that we will not get any effective work done there until after the mayoralty election. Also, it is his feeling that we would probably have no effect on Senator Goodell because he has decided which way he is going and that our most productive activity would be attempting to remove him in a primary contest next year. I would agree with both the Mathias and Goodell situations and think we would be better to hold our fire in these cases.

*W. Lawrence  
the  
right  
approach*

*This is*

*page B5 - as  
address.*

*Adopting 100% - cash business  
H. R. Haldean only - not a question + I was*

Tell it was being carried out &  
so informed the P.

Now get it carried out  
and quickly.

## EXHIBIT No. 16

MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

October 14, 1969

MEMORANDUM FOR: H. R. HALDEMAN

From: J. S. Magruder

Subj: Campaign re Goodell, Mathias and Percy

We are doing the following regarding our proposed program on Senators Goodell, Mathias and Percy:

On Senator Percy, we have a group in Illinois and in other parts of the country, who are sending telegrams and letters to him criticizing him on his view particularly on the war but also on all the issues that he seems to disagree with the President. This program I think will be particularly effective in this case, because we have many people who worked in the Percy campaign who are doing this and are known by the Senator to be legitimate Republicans.

*Where are  
copies?*

Regarding Goodell and Mathias, I would recommend the following:

In discussing this situation with Stan Blair, he indicated that there was a meeting held in Baltimore between Mathias and some of his principal contributors. As a result of this meeting, Blair believes we are making some progress with the Senator and that a campaign along the lines we have mentioned would not only be unproductive but perhaps counter-effective.

*Absolutely  
The  
wrong  
approach.  
See me!*

Goodell is also another question. Because of the active campaign for Mayor in New York, it is the feeling of Tom Houston that we will not get any effective work done there until after the mayoralty election. Also, it is his feeling that we would probably have no effect on Senator Goodell because he has decided which way he is going and that our most productive activity would be attempting to remove him in a primary contest next year. I would agree with both the Mathias and Goodell situations and think we would be better to hold our fire in these cases.

*What also  
The rest  
of the  
State.  
This is*

*pure BS - as  
excuses.*

*I disagree 100% - and besides  
This was an order - not a question - & I was  
↓ on*

Told it was being carried out &  
so informed the P.

Now get it carried out -  
And quickly.



## EXHIBIT No. 17

MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

October 16, 1969

MEMORANDUM FOR:

H. R. HALDEMAN

FROM:

J. S. MAGRUDER

RE:

Campaign re Goodell and Mathias

*This should be reported orally - or at least in a confidential memo*

I talked with Tom Houston last night regarding the need for an aggressive campaign for both telegrams and letters, and he has agreed to begin work immediately on both Mathias in Maryland and Goodell in New York. He will have copies of his work as soon as possible.

I've also talked to Tom Evans in New York and he is quite interested in helping us in this regard, and he will have sent between 20 and 30 telegrams and letters throughout the state from key people that Goodell would be familiar with, regarding Goodell's position on the war.

*File*

*H*

*JSM*

## EXHIBIT No. 18

CONFIDENTIAL

TALKING PAPER - JEB MAGRUDER

1. Put someone on the Washington Post to needle Kay Graham.

Set up calls or letters every day from the viewpoint of I hate Nixon but you're hurting our cause in being so childish, ridiculous and over-board in your constant criticism, and thus destroying your credibility.

2. Nofziger should work out with someone in the House a round robin letter to the Post that says we live in Washington, D. C., read the D. C. papers, but fortunately we also have the opportunity to read the papers from our home districts and are appalled at the biased coverage the people of Washington receive of the news, compared to that in the rest of the country, etc.

3. Follow up on the yacht story - get something in Monday, etc. so that we can get some mileage out of that. Also, see if you can think of any other things to do to follow up on it.

4. Get some letters to the Kopechne case judge, congratulating him on his courage in pointing out the discrepancies in the case.

MEMORANDUM

## THE WHITE HOUSE

WASHINGTON

May 6, 1970

MEMORANDUM FOR: H. R. HALDEMAN

FROM: JEB S. MAGRUDER

Here is a report on the talking paper given to me last week:

1. We have a team of letter-writers who are pestering the Washington Post from the viewpoint that was suggested.
2. I have asked Lyn Nofziger to work up the House round robin letter to the Post.
3. We worked, as you know, on the yacht story with Chuck Larson and the press office. Miss Nixon and the Patricia were pictured in MONDAY and TIME. The decommissioning has been mentioned in several newspaper stories and a number of columns. It was also featured on the TODAY show and the evening news programs. Now that it has appeared in TIME, I frankly think we have as much mileage out of it as we can get - except to cite it from time to time as an example of our attempts to save the government money.
4. We have arranged for letters to be sent to Justice Boyle, complimenting him on his courage in telling the Kennedy case the way it is.

*Magruder**[Signature]**what happened?**OK**✓*

December 23, 1970

MEMORANDUM FOR:

H. R. HALDEMAN &amp; MR. KLEIN

FROM:

JEB S. MAGRUDER

SUBJECT:

AP/STAR ECONOMIC REPORTING

Our letters to the editors operation is sending tough notes to the Star on its unbalanced coverage of the stock market. A sample is attached.

Safire believes letters should be from "investors" who need to have balanced coverage. The investor would be a bull interested in having public awareness of their confidence in the emerging strong market. A sample is attached. Our letters operation is also pushing this line.

The AP dispatches from New York on the stock market are written on a rotation basis. Last week the AP stories were written by John Henry. He will not be writing the dispatches for 10-12 weeks.

Safire is preparing a memorandum of how to publicize the developing bull market.

cc: Safire

*Action Memo 6/4/4*

/ Dear Editor:

As one of the 30 million investors, it is important to have news of bull market get at least equal coverage with less favorable economic news. Bull markets depend on public confidence. That confidence is not served by unequal coverage of economic news.

Very truly yours,

Creighton Brown

The Editor  
The Star  
225 Virginia Avenue, Southeast  
Washington, D. C. 20003

## MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

January 28, 1971

MEMORANDUM FOR:

STAFF SECRETARY

FROM:

JEB S. MAGRUDER

SUBJECT:

SEVEREID COMMENTARY  
ACTION MEMO NO. P 1280

Attached are copies of the citizen letters to Severeid.

McCracken (via Sid Jones) did not think it advantageous to respond.  
Sid Jones note attached.

*Follow up to*

1719 67th Street  
 Brooklyn  
 January 24, 1971

Director of National News  
 Columbia Broadcasting System  
 51 West 52nd Street  
 New York, N. Y.

Sir:

With his usual polite disdain for all things Nixonian Eric Severeid recently regretted a lack of "dramatic steps" within the Administration to curb inflation. Among other things Mr. Severeid noted that steel prices during the Kennedy-Johnson years rose 7%, but 12% during Mr. Nixon's tenure. What Mr. Severeid didn't examine were the causes of this inflation (which steel prices reflected).

As Mr. Severeid was regretting Mr. Nixon's economic policies, his compatriot, Joseph Kraft was writing in the Washington Post: "The academic economists [of the Kennedy Administration] nudged demand ahead of production to the point of severe inflation." President Johnson further aggravated this inflation when he insisted on a "guns and butter" policy in the mid-sixties despite an escalating war and repeated warnings from advisers for new taxes.

Steel prices did average a 7% increase in eight years, with the rise accelerating sharply toward the end. Mr. Nixon was faced with a terrible and stubborn inflation, yet no one wanted drastic dislocations to halt the inflation. Thus, the moderate policies now being followed.

Mr. Severeid mentioned none of this. Such reporting is the basis of charges of journalistic bias.

Most sincerely,

Harry Wachtel

## EXHIBIT No. 19

April 26, 1971

CONFIDENTIAL - EYES ONLY

MEMORANDUM FOR: MR. COLSON

FROM: RON BAUKOL

SUBJECT: <sup>in re</sup> Letters to the Editor

You asked about the cost-benefit ratio of the Letters to the Editor program. The current program was set up by Jeb Magruder after a couple of abortive attempts by others. The current one is a true under cover operation in which letters are printed as letters from private citizens. One girl is employed at the RNC to this purpose, and as you know operates independently except for direction and guidance from myself.

Currently she generates thirty to thirty-five letters per week of which an average of two to three are printed. Most of the letters written have as a goal reprinting in the Letters to the Editor column, some however are written to the networks or papers in such a highly critical tone that we know that they will not be printed. Results are measured not in number of letters written but in number of letters published.

The cost of this operation then is about two man-days, or \$100 per letter published in the Letters to Editor column. Papers we now hit are the influential Post, Times, Monitor, Newsweek, etc. The Letters to the Editor column is the most widely read part of the editorial page thus a \$100 tab for a good letter in the Washington Post is pretty cheap compared to what we spend on other public efforts.



April 26, 1971

CONFIDENTIAL - EYES ONLY

MEMORANDUM FOR: MR. COLSON

FROM: RON BAUKOL

SUBJECT: Letters to the Editor

Notified about the cost-benefit ratio of the Letters to the Editor program. The current program was set up by Jeb Magruder after a couple of abortive attempts by others. The current one is a true under cover operation in which letters are printed as letters from private citizens. One man is employed at the RNC to this purpose, and as you know operates independently except for direction and guidance from myself.

Currently, we generate thirty to thirty-five letters per week for publication. Most of these are printed. Most of the letters contain some sort of criticism in the Letters to the Editor column. Some are even written to the networks or newspapers. I am sure that we know that they will be printed. I am not sure of the number of letters which are actually published.

columns. I am sure that the editorial page thus a piece of work. I am sure that the cost is pretty

We are taking two steps to broaden the program. These steps are proceeding slowly so the security of the program will not be breached.

1. Expanding to include other newspapers in key states.
2. Establishing satellite operations so that the person at the RNC represents merely the stimulus to (unpaid) letter writers in key areas around the country. The first satellite we will establish will be in California.

I attach the full report for this week. As you examine the letters you should keep in mind that among the criteria apparently used for publishing a letter are: timeliness, relation to what the newspaper itself has said, quality, and the presence of a unique twist. These factors plus the fact that results are measured in letters published, not letters sent, show why this operation needs to be a quality, not quantity, endeavor.

cc: Jeb Magruder

## EXHIBIT No. 20

May 1, 1972

MEMORANDUM FOR THE HONORABLE JOHN N. MITCHELL

THROUGH: JEB S. MAGRUE

FROM: ROBERT C. ODLE, JR.

Since yesterday afternoon when the President's speech was announced, the following steps were taken by 1701 to support that speech:

1. Shurway and Odle developed a 24-point "game plan" (Tab A) which began to be implemented as soon as Ron Ziegler announced the speech.
2. Meetings between White House and 1701 personnel were held all afternoon -- a "call sheet" (Tab B) was developed and given to more than 75 staff members at 1701 urging them to send telegrams to the President, letters to the Hill, and letters to the editor. 1701 worked until 1:00 a.m. and some of the results follow.
3. A letter (Tab C) from Frank Dale will go today to 40,000 Nixon workers from '68 and '72. The letter will urge everyone to send the President a telegram.
4. The Press Department scheduled press conferences around the country, got endorsements by prominent leaders (e.g., Governor Reagan), prepared remarks for a Frank Dale speech, prepared a statement for Mr. Mitchell, distributed audio and video statements from Representative Ford and Senators Dole, Tower, Brock, and Gurney, and activated the attack and response mechanisms of the various state Nixon committees. Shurway's report is at Tab D.
5. The Finance Committee initiated over 300 calls. Their report is at Tab E. Someone who previously opposed the President gave \$5,000.
6. The Spokesmen Resources Division contacted our surrogates, celebrities, athletes, etc. They are also programming their speakers today with speech inserts, etc. Their report is at Tab F.

the four political secretaries (Mordian, Mosiman, Kaupinen, Yeutter, and Fleming) plus Tom Evans of the RNC contacted each one of the GOP and Nixon state organizations. Their report is at Tab G.

5. During the evening Magruder's office coordinated all of the response at 1701 and assigned various members of the staff to sections of the campaign which most needed assistance. A quick analysis of some of the other results follows:
  - a. Our volunteer section contacted 163 White House and Administration wives who volunteer at 1701. Of 163, 149 promised to call 10 friends. All volunteers at 1701 today are on the phones.
  - b. Murray Chotiner reached all his ballot security chairmen. ?
  - c. Clayton Yeutter called his farm, agri-business, and midwest political people. Many of Clayton's people had already started the telegram chain going by the time he reached them.
  - d. Rietz' youth operation made 310 calls. One call produced 2,000 calls to our Florida Young Voters Committee. Rietz expects his organization to ultimately be responsible for 10,000 calls. Youth group is also getting statements of support from young athletes, entertainers, etc. Rietz is also planning to gin up pro-RN demonstrators where needed.
  - e. The entire November Group staff in New York stayed up half the night making calls within the advertising and public relations communities, especially in New York and Los Angeles.
  - f. Thirty-five state Nixon doctors' chairmen participated in the telegram campaign.
  - g. Forty-one key Jewish leaders agreed to make calls. A group of rabbis endorsed the President's moves. Press release to go out on this.
  - h. Bob Marik plugged in his California telephone operation boiler room to make calls soliciting telegrams.
  - i. Our Lawyers Committee contacted leaders in various legal associations, e.g., A.B.A., Young Lawyers, etc. Lawyers in 15 states were involved.
  - j. Dan Todd worked with Bud Evans at the White House in contacting the elderly.

k. Tony De Falco plugged in 27 of his ethnic and nationalities people.

- l. All veterans organizations were contacted and agreed to solicit telegrams from their state and local chapters. Phone call groups are following up today. Endorsements are being solicited from commanders.

The American Legion national commander conducted a press conference in which he strongly supported the President.

- m. Alex Armendaris of 1701 and Mo Marumoto of the White House contacted 260 Spanish-speaking leaders. Spanish-speaking TV and radio stations also called. One man agreed to get 2500 telegrams from 21 cities sent.
- n. Betty Nolan's "letters-to-the-editor" apparatus began to crank up her troops and we expect over 1200 telegrams as a result of this operation.
- o. Paul Kayser's Business committee reached 43 key national business and industry leaders. Of the 43, 41 agreed to help. They are following up today.
- p. Pat Eutar has cranked up Republican women's types throughout the country and instructed them to see that there is follow-through at the local level. Expect this to be a real strong source of support. Pat estimates she's reached 150-175 women. Barbara Franklin is helping in this regard.
- q. Barbara made 46 calls last night to women leaders around the country, concentrating on those outside the Republican Party or campaign apparatus.

: Mr. E. R. Maldeman  
 Mr. Charles W. Colson  
 Mr. W. Richard Howard  
 Mr. William Rhatigan  
 Mr. Frederic V. Malek

RUDER WORK  
 RUDER SUBJECT  
 E CHRON.  
 E SUBJECT

1. Get hints to position our youth leaders. -- Call
  2. Working with 1701's political coordinators, get in touch with all Union state chairmen, especially in New York, California, and Illinois. -- Shumway
  10. Mail President's speech widely to editorial writers, broadcast editorial writers, college editors, etc. -- Shumway/Balsion
  11. Coordinating with the calls which will be made by White House people (Colson, Buchanan, Safire, Klein, Sieglar, etc.) call from 1701 key editors, columnists, etc. -- Shumway
  12. Alert state attack mechanism to feed to Shumway criticism of the President by Democrats and others in the states. Then arrange a response at the state level. -- Shumway
  13. Alert state attack mechanism to send in supportive editorials which will then be mailed out and used by other editors as guest editorials. -- Shumway
  14. Get comments from Jewish leaders. -- Odle/Goldberg
  15. Get comments from veterans leaders. -- Odle/Naylor
  16. Get comments from leading lawyers. Talk to Thomas W. Evans. -- Piliero/Sedan
  17. Get line out to financial leaders, businessmen, etc. -- Stans/Sloan
  18. Crank in agricultural and midwestern leaders, perhaps brief farm editors. -- Yeutter
  19. Crank in doctors and dentists. -- Stover
  20. Have Frank Dale make major statement. -- Shumway
  21. Consider having Mr. Mitchell make major statement. -- Magruder
  22. Get USC speaker (Lehman?) at 1701's Tuesday 7:30 a.m. staff meeting to brief on substance and correct line. -- Shumway
  23. Instruct at staff meeting that everyone should spend Tuesday on this project and report by 5 p.m. as to what he did. -- Malek/Odle
  24. Have Nolan activate letters to the editor apparatus. Concentrate also on letters to those who are critical of President.
- cc: Mr. W. Richard Howard

## EXHIBIT No. 21

FINANCE COMMITTEE FOR THE RE-ELECTION OF THE PRESIDENT

MEMORANDUM

May 15, 1972

MEMORANDUM FOR:

THE HONORABLE JOHN N. MITCHELL

FROM:

G. GORDON LIDDY

SUBJECT:

Reaction to the President's  
Vietnam response.

Earlier reports mentioned plans for a rally on Saturday evening, May 13, at Bay Front Park, Miami, Florida. Because of differences of opinion in the Cuban community and some internal jealousies, it was thought best to cancel the rally and to substitute a motorcade on Saturday afternoon.

Accordingly, on the afternoon of Saturday, May 13, a motorcade of 200 automobiles and 60 trucks was assembled at the Central Shopping Plaza, 37th Avenue and 7th Street, NW, Miami. The vehicles were placarded with signs such as "Nixon - We Back You 100%" and "Free the POWS Now," as well as a number reading "Tell It to Hanoi." The motorcade lasted two and one-half hours (2:00p.m. to 4:30 p.m.); starting at the Central Shopping Plaza, the route went south on 37th Avenue to the Tamiami Trail, then to Biscayne Boulevard and then all the way back up Flagler to 32nd Avenue. As the motorcade proceeded with lights on, more than 200 more vehicles joined the caravan, having a total of nearly 500 vehicles (automobiles and trucks.)

The reactions of the street crowds on the way was very favorable. The route took the caravan through areas populated heavily by Cubans, and there was much shouting of "Viva Nixon." Traffic was nearly paralyzed. The police were sympathetic and helpful. At one point when the caravan stopped while police cleared traffic, one store took the popular music off its outdoor phonograph speakers and played The Star Spangled Banner.

Persons on the scene stated that Miami Herald coverage was biased against the motorcade in that it published no photographs with strong pro-Nixon sentiment, but only those which could be taken two ways; e.g., "Free the POWS now." The Herald report (Section B, page 1) should not be relied upon as an accurate description as the actual event and the reaction thereto was far more favorable to the President.

Ad copy and key cuts were put together in case the decision is made to place advertising. Bumperstickers (e.g., "Support the President for Peace") are being developed to take the place of the standard campaign bumpersticker for the next few weeks.

- c. Betty Nolan hit 4 of the Senators with 195 letters. In addition, early yesterday morning she had over 70 letters sent to The New York Times protesting its May 10 editorial. (All other staffers were instructed at the May 11 staff meeting to write similar letters to The Times).
  - d. The scheduling and tour offices concentrated on 7 of the Senators. It is thought that in excess of 500 letters and/or telegrams were generated by the scheduling apparatus.
  - e. Our White House/Administration wives program contacted 292 more people on Wednesday bringing the total contacted to 1,094. More than 60 wives participated in Ken Rietz' vigil.
3. The Citizens/Voting Bloc Divisions concentrated their efforts on generating telegrams and letters to key Senators; organizing the vigil on the Capitol steps; and obtaining endorsements.
- a. Telegrams and Letters. All of the Citizens and Voting Bloc Directors worked on generating telegrams and letters to the key Senators. Over 3,000 calls were made, many by the Youth Division with a resulting flood of telegrams.
  - b. Capitol Hill Vigil. A coordinated effort of several Citizens/Voting Bloc Divisions led by Youth and including Women, Blacks, Spanish-Speaking, Lawyers, and Older Americans resulted in a highly visible and successful rally at Capitol Hill yesterday noon. Over a thousand people turned out, and television cameras were present. Full coverage on last evening's news programs (including the networks) was given to the demonstration, with favorable comparisons to the Cranston demonstration which was held at 6:00 a.m. yesterday morning. Even before the vigil occurred, it had received a positive mention on the TODAY show which helped to counter the effectiveness of Cranston's demonstration. The vigil was also covered on this morning's news shows (e.g., TODAY).

CONFIDENTIAL



- c. Endorsements. All Citizens/Voting Blocs continued to work on obtaining endorsements from prominent individuals and national and local groups. Just a few examples of the many endorsements received:

Youth: Ten of the 13 members of the Denver City Council.

Spanish-Speaking: Five Spanish-Speaking community leaders in each of five key States; all Cuban radio stations in Florida; President of the Spanish-American Business Association of Chicago (a Puerto Rican organization).

Women: Presidents of the National Federation of Business and Professional Women, General Federation of Women's Clubs, and Women's National Republican Club.

Veterans: All American Legion Department Commanders have been requested to go to the media in their state with endorsements; Veterans organizations in 15 cities have passed resolutions and placed these resolutions in local media.

Lawyers: Independent Lawyers Committees in support of the President's Vietnam Policies have been formed and have tentative plans to place ads in The Evening Star and The New York Times.

- d. Plans. The Citizens/Voting Bloc Divisions will now place maximum effort on staging events (vigils, rallies, etc.) which would receive coverage on a local or regional basis. Positive demonstrations of support are already planned at several campuses (including USC), and we will try to counter adverse demonstrations whenever desirable.

In addition to stimulating local efforts, the Citizens/Voting Bloc Groups are arranging visits to Capitol Hill offices by groups of constituents. As one approach, a schedule of all conventions in Washington for the next week has been obtained, and the Citizens/Voting Bloc Directors are working with the convention directors to organize out-of-town conventioners to visit their Congressmen.

CONFIDENTIAL

## COMMITTEE FOR THE RE-ELECTION OF THE PRESIDENT

bcc: Mr. E. R. Haldeman  
bcc: Mr. Charles W. Colson  
bcc: Mr. William French  
bcc: Mr. Dwight Chapin  
bcc: Mr. W. Richard Howard  
bcc: Mr. Frederic V. Malek

MAGRUDER WORK COPY

MAGRUDER SUBJECT

ODLE CHRON.

ODLE SUBJECT

## EXHIBIT No. 22

THE NEW YORK TIMES, WEDNESDAY, MAY 11, 1972  
ADVERTISEMENT

# THE PEOPLE VS. THE NEW YORK TIMES

The May 10th *New York Times* editorial, critical of President Nixon's closing of North Vietnam land and sea supply routes, argued that the President's actions ran "counter to the will and conscience of a large segment of the American people."

How "large"? The *Times*' self-serving assertion would suggest that the majority of the public opposed the President's actions.

## BUT WHAT DOES THE PUBLIC SAY?

- A telephone poll, conducted by Sindlinger & Co. of Swarthmore, Pennsylvania, on May 10 found that 76% of the public supported the President in his efforts to end the Vietnam war. 23% were opposed.
- A poll by Opinion Research Corporation of Princeton, New Jersey, on May 10, was almost identical. 74% backed the President's decision to mine the North Vietnamese ports; 21% did not.
- The well-known Harris poll questioned 1400 voters on May 12. 59% approved the mining of Haiphong while only 24% disapproved.
- Finally, the American Broadcasting Company's poll of May 11. Again, 59% backed the mining, and 28% did not.

## WHO CAN YOU BELIEVE— THE NEW YORK TIMES OR THE AMERICAN PEOPLE?

Ms. Phyllis Borden

Prof. Edward M. Gershfield

Rabbi Abraham Gross

Mr. Nash Kestenbaum

Mr. & Mrs. Michael Leta

Mr. & Mrs. Richard Light

Dr. Hillel Seidman

Mr. & Mrs. George Stillman

Mr. & Mrs. Alan Timpson

Ms. Patricia O'Leary, Coordinator  
Scenic Drive  
Croton-on-Hudson, New York  
914-271-3175

## EXHIBIT No. 23

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

~~CONFIDENTIAL~~

March 9, 1970

MEMORANDUM FOR: MR. MAGRUDER

- 1) I have talked with Connie Stuart about the need to follow up on the highly inaccurate article in the NEW YORK TIMES Magazine this Sunday regarding White House social activities. There are numerous factual errors and other very erroneous implications. I suggested to Connie that she might want to give the facts to another rival columnist and let him go to town and start a battle. Also, I think we ought to get some letters to the editors going, and show some indignation and activity on this front. They should not be allowed to get away with this. Perhaps you, Herb and the others can think of some other possible points of attack.
- 2) Would you please give me once every two weeks a summary of the various hatchet-man operations -- letters to the editors, counter-attack, etc., so that I can report to the President on the activity in this regard.
- 3) We also need to be sure that the Pat Nixon trip story keeps going because there won't be another such trip in the near future. I have talked with Connie about this, but you should follow up too. For one thing, let's be sure the National Committee builds this up. I think Leonard ought to do a whole issue on the Pat Nixon Tour, and we ought to really push for maximum continuing coverage on the things that were accomplished from this. We could get back to the cities where she was and get some follow up stories on the aftermath results of her visit, etc. Please don't let this drop, and please let me know what you are doing on it.

~~CONFIDENTIAL~~

H. R. HALDEMAN

See memo  
Sent March 10  
Center Special  
in Persuasion  
Forlet Mitten  
For women  
Bud Wolfson  
Lent to  
same packet  
to L.A. for  
camping people

## SPECIFICATIONS FOR MAILROOM SERVICES

Division 1000 Date March 22 1971Description Special Mailing SwathersQuantity 8,750 Size letterNo. Pages 3 cover + two Backup no  
or what ever RMC stationaryStock XXX Bag is printed on Color(s)   
we want this to look real goodEnvelopes: No. 10 ☒ Other ☐ Ink Assemble ☒ Fold ☒ Mail ☒ Postage Class 1st

Address Codes:

029 So. 6002 P15036 037 - 3000019 So.021 024 So.

Other Instructions:

return all copies to Communications  
None to Gus Miller or Darlene MouldsPrint envelopes as indicatedRequested by D. Burns Date March 22 Completion Date Mar 23Approved by  Approved by   
Department Head Public Relations

## For Accounting Purposes Only

Stock	Sheets @	\$	
Ink	Impressions @	\$	
Plates	No. @	\$	
Negs.	No. @	\$	
Other			

TOTAL

## EXHIBIT NO. 24

*Smathers March 22 '71*

Diana:

Per our telephone conversation the enclosed letter and two page statement is to be mailed. It should be mailed in envelopes which have the appropriate return address (sample enclosed). The mailing should be stamped rather than using the postage meter.

It is to go to the following:

1. { Democratic 1968 Convention delegates (B19) • **ALL STATES**  
       Democratic Congressmen and Senators (O21) (O24)\*  
       County and State Democratic Office Holders (O29)\*
2. Democratic State Legislators (Code not yet determined)\*
3. { Editorial Writers (C02) *not to be used*  
       Editorial Personnel of Radio and TV Station (P15)

With regard to the above, the #1 group should be mailed by Tuesday, March 16, 1971. Groups 2 and 3 should be mailed by Friday, March 19.

Groups 1 and 2 (as indicated by the \*) are for the following states ONLY:

Alabama	South Carolina	Tennessee
Oklahoma	North Carolina	Missouri
Louisiana	Florida	Virginia
Georgia	Texas	West Virginia
Arkansas	Kentucky	Mississippi

Group #2 is the only group for which new labels have to be made. By new labels I mean that the type of label used is to be altered, and a fake identification code is going to be added. I understand that changes will also be made in the actual name and address. Do whatever is necessary to alter the appearance beyond identification as coming from us. Keep a file of what you do so that we can either use it again, or change it for another mailing should one arise in the future.

If you have any questions, please call me.

*Smathers and Merrigan*  
*Attorneys and Counsellors at Law*  
 1700 Pennsylvania Avenue, N.W.  
 Washington, D. C. 20006

*Telephone 202-293-5300*  
*Cable Address: Smathers*

*Florida Office*

*Alfred J. Dupont Building*  
*Miami, Florida*

*American Heritage Building*  
*Jacksonville, Florida*

Dear Friend:

There has been a great deal of criticism of President Nixon's Southeast Asia policy in the past few weeks. Even though I am of the opposite political party, I happen to be one of those who believes that what the President is doing is absolutely right for the country. I don't see any other feasible alternative if the President is to be successful in ending the war in an honorable way.

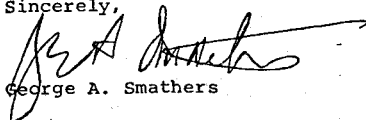
Recently, Mayor Yorty of Los Angeles wrote a very perceptive letter to a former colleague of mine pointing out some of the deficiencies in the positions taken by the President's critics. The letter received very little attention in the nation's media. Because I thought that Mayor Yorty so well expressed the case for President Nixon's policies I made a summary and am taking the liberty of sending it to you for perusal.

Florida made it possible for me to serve in the Congress for 22 years--under four different Presidents. It seems to me that while each developed a foreign policy somewhat different from his predecessors, nevertheless each of them basically advanced the principle that the United States, while neither an aggressor nor an isolationist, was a strong, responsible, realistic nation that believed in the right of self-determination and personal freedom and was willing to make certain sacrifices calculated to assist that cause. President Nixon's foreign policy, while somewhat different because of changed conditions, nevertheless maintains the continuity of keeping America responsible and respected.

I am certain that no one wants peace nor appreciates it advantages more than does our President. In times like these, he deserves to be supported by all.

With best wishes,

Sincerely,

  
 George A. Smathers

15 AUGUST 1973

## EXHIBIT No. 25

## SPECIFICATIONS FOR MAILROOM SERVICES

Division NY 659 Date July 21, 1972  
 Description Letter reaction to the McGovern Nominations  
International Brotherhood of Teamsters  
 Quantity 500 copies Size letter No. pages 2  
 Backup no Color(s) \_\_\_\_\_ Ink \_\_\_\_\_  
 Stock off Envelopes \_\_\_\_\_ hand addressed  
 Assemble ☒ Fold ☒ Mail ☒ Postage Class \_\_\_\_\_

Labels Name of List(s) to be used: \_\_\_\_\_

and Addr. 1. Teamster Release to the McGovern Nominations 11x14 White Envelopes  
070899 (CRP) P Provided  
 26 computer 2. Teamster Release to the McGovern Nominations 11x14 White Envelopes  
 3. Teamster Release to the McGovern Nominations CRP & 11x14 10s  
 Computer

Other Instructions: Total Prints Print  
 Teamster Release 2 pgs 4000 copies  
 McGovern Release 2 pgs 500 copies  
 O'Donnell Cover 250 copies  
 Summary McGovern Cover 250 copies

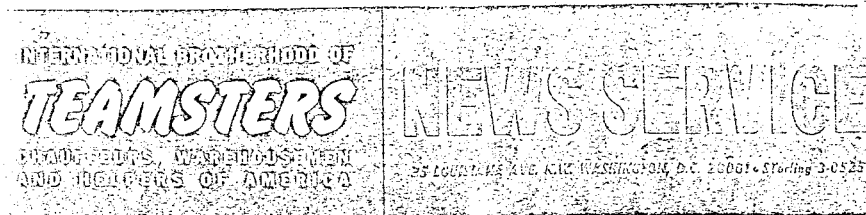
Key Staff distribution rest to communications

Requested by \_\_\_\_\_ Date 1 Completion Date \_\_\_\_\_  
 Approved by \_\_\_\_\_ Approved by 1  
 Division Head Communications

## For Accounting Purposes Only

Stock \_\_\_\_\_ Sheets @ \_\_\_\_\_ \$ \_\_\_\_\_  
 Ink \_\_\_\_\_ Impressions @ \_\_\_\_\_ \$ \_\_\_\_\_  
 Plates \_\_\_\_\_ No. @ \_\_\_\_\_ \$ \_\_\_\_\_  
 Negs. \_\_\_\_\_ No. @ \_\_\_\_\_ \$ \_\_\_\_\_  
 Postage \_\_\_\_\_ Computer \_\_\_\_\_ \$ \_\_\_\_\_  
 Other \_\_\_\_\_  
 TOTAL \$ \_\_\_\_\_





Teamster Executive Board  
Endorses Nixon's Reelection

July 17, 1972

The general executive board of the International Brotherhood of Teamsters today took an unprecedented action responding to the deep feelings of the members, evident in the conversations and communications with local union representatives from across the country. We find ourselves at odds with the traditional and sometimes almost reflex support of the Democratic national ticket.

Our members work hard for their wages, they are entitled to what they earn, and they figured that the government ought to get off our backs and out of our pockets. The policies of Mr. McGovern only promise more of the "big brother" not less.

Our members are, for the most part, hard-working family men and women who are not in favor of legalizing pot, encouraging abortion, and granting amnesty to those who desert our country in time of need.

Although the majority of the executive board of the Teamsters are Democrats, we cannot and will not endorse the 1972 Democratic ticket.

more

15 AUGUST 1973

## EXHIBIT No. 26

N.WAYER/JORGENSEN/MACDONALD, INC.

TELL IT TO HANOI COMMITTEE - STATEMENT OF ACCOUNT

May 1970 - Newspaper Ad Space & Production	\$ 98,440.78
July, 1970- Newspaper Ad (8/3/70)	17,997.66
August, 1970- Newspaper Ad (8/18 & 19/70)	76,593.64

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Total Billing	\$ 193,032.08
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## Payments Received:

Tell It To Hanoi Committee	
5/8/70 - Mfg. Hanover Trust Co. 1-30	100,000.00
8/25/70- Mfg. Hanover Trust Co., 1-30	78,000.00

Republican Campaign Committee	
10/2/70- Bank No. 15-52	4,000.00
10/2/70- Bank No. 15-52	4,000.00
10/2/70- Bank No. 15-52	1,000.00
Republican Finance Committee	
10/2/73- Bank No. 15-4	6,000.00

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Total Paid	126,000.00
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Balance Due to Committee	66,032.08
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The above figures were taken from our records. Further detail can be furnished if needed.

*[Signature]*  
Accounting & Office Manager

10/2/73

## EXHIBIT No. 27

2

5. Immediate appointment of task force and working parties to study the situation and to develop a plan of action.

May 5, 1970

6. The following leaders of the administration have been contacted and asked to speak out publicly in support of our position.

**MEMORANDUM FOR THE PRESIDENT**

7. The following actions have been taken in response to the week's major news events.

The following actions have been taken in response to the week's major news events.

**CAMBODIA**

1. A major effort is being made to schedule Administrative spokesmen on radio and T. V. programs to tell our position and counter criticism from the other side. Among the more successful appearances have been Vice President Agnew on Face the Nation this past Sunday and Bob Hope's guest spot on the Monday night Tonight Show.
2. All of the departments and agencies have been asked to generate support for our position. Speech inserts and fact sheets have been distributed and the departments have furnished our office detailed schedules of when and where their spokesmen will speak out.
3. A continuing effort is being made on the Hill, both to win Senators and Congressmen over to our position and to get them to speak out publicly in support. More than 50 speeches inserts have been distributed.
4. The political structure of the Party has been personally contacted and asked to generate support. This includes Governors, State Chairmen, members of the Republican National Committee and leaders of the Youth, Women's and Heritage groups. Unfortunately, news of this operation was released to the press by an official Republican National Committee spokesman.

5. Numerous special interest, veterans and patriotic groups were briefed and have generated considerable public support.
6. Many opinion leaders across the country have been contacted and asked to show their support through letters to the editor and calls to local radio talk shows.
7. The "Tell It To Hanoi" Committee has placed ads in more than 40 newspapers and mailed more than a million pieces of mail asking for support. Other groups, such as Young Americans for Freedom, have also placed major ads.
8. A copy of the speech and detailed background information on Cambodia was mailed to editors, editorial writers, and radio and T. V. news directors.
9. A major portion of the Monday newsletter, including a cover picture, was devoted to supporting the President's action.
10. Top-level public relation contacts across the country are working with us to generate support for our position.
11. Key columnists and editorial writers have been furnished information for favorable columns.
12. USIA has launched a major effort to communicate our position in foreign countries.

#### ECONOMY

1. Chairman Paul McCracken's speech on April 28th to the 23rd Annual Conference of the Financial Analysts Federation in Dallas is being mailed to top financial editors.
2. Arrangements have been made to provide speeches on the economy to the Senate Policy Committee on a continuing basis.

CAMPUS UNREST

1. Due to unrest on campuses created by the student deaths in Ohio, a meeting was called this morning with Herb Klein, Jeb Magruder, and eleven members of the White House staff under thirty. The purpose of the meeting was to suggest on the part of those closest in age to students, what could be done to cool the campus.

There were some concrete ideas agreed upon at this meeting. They will be forwarded as recommendations in a memorandum this afternoon.

2. A representative of this office attended a meeting today with Bud Krogh at the Deputy Mayor's office. The purpose of the meeting was to discuss the Government's position vis-a-vis the New Move demonstrations planned this Saturday. Negotiations were to begin late this morning with leaders of the New Move in an attempt to get them to agree to rally on the Washington monument grounds rather than Pennsylvania Avenue. A second meeting, at which time there will be a report on the negotiations, is scheduled for 3:00 p.m. this afternoon.

Have the White House office develop a position of advice and information regarding the New Move.

**Jeb Magruder** has effect in taking speech on the Hill, both to win the support of Congressmen over to his position and to get them to speak on publicly in support. Since it is 10 speeches he has been asked to make.

4. The political committee of the Party has been extremely active and asked to generate support. This includes Congress, State Governors, members of the House of Representatives and members of the Senate, and members of the House of Representatives. Unfortunately, some of the activities were restricted to the people by an official Republican National Committee spokesman.

## EXHIBIT No. 28


MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

August 6, 1970

MEMORANDUM FOR : MR. MAGRUDER

The President was especially pleased with the Safeguard ad in the Star tonight and wants to be sure you tell whoever wrote it that it was extremely well done.

  
H. R. HALDEMAN

cc: Mr. Colson

h -

*Colson says he did it.*

R

O

Q Feb

August 11, 1970

MEMORANDUM FOR MR. HALDEMAN

FROM: JEB MACGRUDER

Chuck Colson, with some help from Ollie Atkins and others, put the Safeguard ad together. I have passed on the President's comments to him. We all feel it was an excellent ad.

cc. Chuck Colson

## EXHIBIT NO. 29

MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

December 1, 1970

MEMORANDUM FOR: MR. KLEIN  
FROM: L. HIGBY *L*

In the next few months we will probably be doing a lot of polls that we don't want to paint as political polls, i.e. they shouldn't be referred to as being Republican National Committee polls. In order to make them effective we need other organizations that we can hang the polls on that will have credibility.

Any thoughts you might have as to organizations that we might use this for; for example, AEI, would be appreciated.



December 9, 1970

MEMORANDUM FOR LARRY HIGBY

FROM: GORDON STRACHAN

Other independent groups which could be called upon for polls include:

1. Taft Institute for Government
2. United Student Alliance
3. Y.A.F.
4. Tell it to Hanoi
5. American Security Council
6. Committee for a Responsible Congress
7. Price Fighters League
8. A.E.I.

17 D. C. Committees formed to funnel money during the campaign could be kept existant for poll use:

1. Committee for Better Government
2. Committee for Responsible Government
3. Committee for Responsive Government
4. Good Government Committee
5. Citizens for Good Government
6. Responsible Citizens Committee
7. People United for Good Government
8. Committee to Make Political Parties Responsive
9. Committee to Make Government Responsible
10. Better Government Committee
11. Committee for Effective Government
12. Committee for Effective Political Parties
13. Effective Government Committee
14. Committee for New Politics
15. New Politics Committee
16. Committee for Responsible Politicians
17. Citizens for Responsible Politicians

GS:jb

two copies, GEB for files and 2 JB, memos sent file and chron.

## EXHIBIT No. 30

MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

CONFIDENTIAL

CONFIDENTIAL

June 17, 1970

CONFIDENTIAL/EYES ONLY

MEMORANDUM FOR: MR. MAGRUDER  
FROM: L. HIGBY L

As we talked before we should get someone together to run ads attacking key Senate candidates on the opposition who voted against us with regard to Byrd. There are about 10 key ones here and we should get either a citizen's committee or "Tell it to Hanoi" to run these ads. At the top of the ad should be the words "Incredible" printed in large letters, indicating the Senator's name and saying that "the time has come for the American people to standup to rise up in indignation."

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## EXHIBIT No. 31

## COMMITTEE FOR THE RE-ELECTION OF THE PRESIDENT

1701 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, D. C. 20005  
(202) 333-0320

October 29, 1971

CONFIDENTIAL

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: JEB S. MAGRUDER

SUBJECT: A Citizens Campaign for 1972

MISSION

The basic reason for having a national "citizens" campaign effort on behalf of an incumbent President seeking re-election is to provide an apparatus for the broadest possible participation by American citizens in the campaign. The growing disenchantment with political parties, the larger independent vote, and the 18-21 year-old vote make it necessary for the President to go well outside the bounds of his own party registration in order to be re-elected. A properly constituted citizens effort can provide a vehicle to assist in this effort. Based on discussions with former citizens participants and other campaign personnel and party leaders, this memorandum is designed to recommend the structure we think can best accomplish this in 1972.

ORGANIZATION

This memorandum recommends that the President appoint a National Citizens Committee, which, in turn, will have direct responsibility for the conduct of the Presidential campaign, and that there will be a politically-appointed Nixon state chairman who will be held accountable for the conduct of the Presidential campaign in each state. The appointment of this person falls under the jurisdiction of the campaign's political division.

National Level

The recommendation at this level is based on the belief that a national citizens operation can be most effective if it is set

CONFIDENTIAL

-2-

up as an integral part of our committee. Although a "figurehead" national citizens chairman would later be appointed (in January or after the President announces his candidacy, or later), and although the citizens effort would be publicly identified as independent, most of the national citizens work would be handled by competent staff people (housed in the same headquarters with us) who would function together as a division of this committee and report to you through your deputies. In this way, the citizens operation at the national level would function as a service organization -- it would "service" the rest of the campaign organization by filling the gaps and plugging the holes where necessary and appropriate -- it would perform those functions which it could perform better than another division of the campaign organization could. Examples of these functions will follow.

This memorandum initially recommends approval of the concept of the national citizens operation as outlined above and the hiring of a competent staff member to serve as coordinator for this division of the campaign. We are now in the process of identifying candidates for this position.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_ Comment \_\_\_\_\_

#### State Level

The state level recommendation is that the citizens operation be structured along similar lines -- the responsibility for deciding how much and what kind of citizens activity there should be in each state would be a decision made with the counsel and consent of the politically-appointed Nixon state chairmen. Those state chairmen, now being appointed under your guidance, would be responsible to Washington for the entire presidential campaign and would coordinate the presidential campaign activities of both the Republican state committees and the state citizens operation in their states.

The state citizens committees would be identified publicly, however, as independent. A respected person with name recognition would be the logical choice to head the citizens, and in most states a younger executive director would assist the chairman. The chairman should, in most cases, be inactive in terms of running the campaign and not attempt to take charge of it. He should, however, be highly visible and "out in front." He might in special instances have assignments of major significance (perhaps having charge of certain major cities or programs) but with the understanding that the Nixon state man is the coordinator and the conduit to Washington. The state citizens

CONFIDENTIAL

-3-

leader role will vary from state to state and must be understood and accepted by each leader from the beginning. In smaller and non-target states, the politically appointed Nixon chairman and the citizens executive director might be the same person. The guidelines for the state citizens organization described and recommended are sufficiently flexible to meet the individual needs of diverse states but still promote a clear understanding that the political campaign chief in each state is in charge.

It was originally thought by some of the people working on the task force studying citizens that we would be in a position by this date to make specific suggestions as to who should be selected in some of the more important states to head up citizens activities. We now believe such proposals would be premature. An effective citizens activity must work in close harmony with the Nixon state chairman -- who is not yet appointed in most states. Also, because the citizens effort is oriented toward the fall campaign and because it seeks to provide a refuge for disenchanted Democrats and Independents who make decisions to support the President, it would be unwise to put together citizens leadership at this early date.

Assuming most state chairmen are appointed by January 1, we propose that as soon as the political area makes the selection of a Nixon state chairman, that chairman be asked to charge someone on his staff to act in the capacity of a coordinator for citizens activities in order to begin working with our national staff man on the group activities described below. This man would eventually identify the state citizens chairman who would be selected probably in the summer. (In some states it may become necessary to appoint an "organizing chairman" much earlier.) Also, at a time shortly after the selection of the state Nixon chairman, it should be decided by him and especially campaign management whether that particular state would be a "target state" in terms of citizens activity.

In all states, because of the diverse "horizontal" activities described below, citizens activities will generate names of supporters to be supplied to the regular party's state and local organization. In some states there may be developed "vertical" (i.e., state-to-county-to-precinct) citizens organizations to supplement the party ranks but these would be isolated cases to be dealt with as need may arise. It is recommended that we build a strong citizens organization only in those states where it would really help. There is no reason for citizens organizations to exist if their only purpose would be to complete an organizational chart on an office wall in Washington.

CONFIDENTIAL

CONFIDENTIAL

-4-

It is recommended that the above method of structuring the state citizens organizations be approved.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_ Comment \_\_\_\_\_

#### THE FUNCTIONAL GROUP APPROACH

The most important citizens activities will take the form of a horizontal operation of persons with special interests who can be appealed to on the basis of those interests. Groups such as lawyers, doctors, and businessmen generally fall into the citizen panoply because one's identity as a "lawyer," for example transcends party lines and therefore an appeal to this particular identity should not be made by the party, but by the citizens operation.

Groups such as lawyers, doctors, businessmen, etc., are "minor" issue groups in the sense that issues of major concern to them as lawyers or doctors may be of minor or no concern to the citizenry in general. For example, lawyers should be reminded of the President's interest in judicial reform, his lawyer-like life style, and working habits, and his programs for legal services, drug abuse, penal reform, etc. Doctors are interested in his health plan winning approval over Senator Kennedy's. Businessmen must be instructed by other businessmen on the merits of the President's economic and finance policies.

Appeals by doctors to doctors, for example, have more credibility than, say, appeals by the RNC to doctors -- hence, it is with the "minor issues" that we believe the most effective modern campaigning can be accomplished in the citizens area. Keyed to the legislative elements of the Nixon program, and the hundreds of topics the President has spoken out on during the past three years, this issue approach can be most effective. While respected leaders should be chosen to lead each main area (e.g., Sen. Randell and businessmen), most of the work should be done at the staff level in Washington -- and initially put together by the staff member we propose to hire.

At the state level, the structure should be similar. There would be no functional group effort in a state without the specific approval of the Nixon state chairman and the state citizens chairman. In other words, before the Washington staff set up a "Florida Lawyers for Nixon" operation, they would make certain that the two Florida

CONFIDENTIAL

-5-

Chairman had no objection to such an operation and were consulted as to who the Florida lawyers chairman should be.

Further, the functional group state chairmen would report first to the state Nixon and citizens chairmen -- and then to Washington. The state staff in Washington would not be in a position to force functional group citizens activity on an unwilling Nixon (wisa), than (unless Washington campaign management decided other-

In addition, to work among their own group (e.g., lawyers using "minor recruit other lawyers) many functional groups have other selling ses. For example, our lawyers plan calls for a nationwide small by lawyers of the President's program in speeches before for pro such as service clubs. Doctors' wives can be organized to work. And businessmen can take on the responsibility to President and his program known to their own employees.

The number of horizontal groups established should never become arbitrary. The number should be determined primarily by groups would have real potential as vote-getters or money-raising. The campaign should be alert to opportunities revealed by as generated by current events, ideas suggested by demographic information or the appearance of volunteer leaders. Whether a group practical can be measured in large part by the currency of available fundamental harmony with the President's program and the and can of capable leaders. Based on these factors, during 1971 concentration on the following groups is recommended.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_ Comment \_\_\_\_\_

1. Businessmen. As you know, we have been working closely with Don Kendall DeLoach in putting together a fairly comprehensive statement on the role of businessmen in the 1972 Presidential campaign. This is attached at Tab A. Basically, the statement reports by businessmen in that it contains a large scale of all kinds of businessmen -- from the rural general to the large industrialist and banker -- rather than the usual collection of "fat cat" businessmen. Secondly, it will primarily to raise funds -- although it will be self-sustaining -- but rather will undertake to recruit as many people as possible to the President's candidacy. While Businessmen would fall under the citizens canopy, it would be more independent than many of the horizontal groups.

CONFIDENTIAL

CONFIDENTIAL

-6-

The proposal is at Tab A. We understand from Deke that you have approved it.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_ Comment \_\_\_\_\_

2. Lawyers. Richard Kiefer (a Duke classmate of the President's) and George Webster, both of whom were active in the 1968 lawyers campaign, have put together an extensive proposal, attached at Tab B, for the '72 lawyers operation. Their proposal has been reviewed by John Dean, and by John Robson, a Republican lawyer from Chicago who served as LBJ's Under Secretary of Transportation and who Don Rumsfeld would like to see as one of the vice chairmen of the national lawyers operation. It was then modified to some extent by us.

The basic purpose of lawyers would be, of course, to recruit as many attorneys as possible to the re-election effort, and to use these recruits as grass roots "surrogate candidates" who would sell the President's candidacy by speaking to hundreds and thousands of local clubs and groups, such as service clubs, throughout the nation.

Initially, the citizens staff man we propose to hire could begin to set up the lawyers effort at a national -- and to some extent at a state -- level. In the first few months of 1972, a person at the staff level would begin to devote virtually full time to the lawyers operation.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_ Comment \_\_\_\_\_

3. Doctors. As you are aware, through AMPAC Lee Nunn is putting together a small steering committee of doctors who will form the vanguard of the Doctors for Nixon operation. The purpose of this group will be two-fold: (a) to assist in fund raising; and (b) to recruit other doctors, and through them, the citizenry in general, to the re-election effort. This organization will be financially self-sustaining.

Later on, through this group, doctors' wives will be organized for specific projects relating to community and precinct work.

Doctors Malcolm Todd of California and Hoyt Gardner of Kentucky are putting together the steering committee, along with Harry Hinton, AMPAC's Washington representative. All three are personal friends of Lee Nunn.

This group will handle its own organizational work for us -- no staff will be necessary here at the committee at least through mid '72

CONFIDENTIAL



CONFIDENTIAL

-7-

except for liaison work which will be done by Lee in the finance area and our citizens staff man in the non-finance areas.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_ Comment \_\_\_\_\_

4. Association Executives. The American Society of Association Executives, led by its Washington-based Executive Vice President, James Low, is an association made up of the heads or executive directors of every kind of society and association ranging from the Accounting Research Association to Zeta Beta Tau Fraternity. Bud Meredith, executive director of the American Apparel Manufacturers Association, and Jim Low have put together a ten-man task force to discuss what association executives can do to assist in the campaign. Their proposal is attached at Tab C for your approval.

Because of their very unique situation, in that they all speak for and represent major constituencies, associations executives can be of tremendous assistance in the campaign. This group will be particularly helpful to our Spokesmen Resources group as the attachment shows.

Here again, this group can finance and run its own activities. All that would be needed on the staff level here is part of our citizens staff man's time to act as liaison with the group.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_ Comment \_\_\_\_\_

5. There are a number of other groups which will be so important in 1972 that they have warranted separate and special task forces. Ultimately, however, the formal structures which result in many of these areas from task force recommendations will be incorporated to some extent under the citizens umbrella, and nominally at least, the chairman of many of them would report to the citizens chairman. (In reality, of course, many will report directly to campaign management, such as youth, women, etc.)

- a. Youth, young adults, young voters. This function is under the direction of Ken Ritz, and you have reports and proposals from him. Ken's activities are being closely coordinated with those of the RNC and the White House in the youth area.
- b. Women's activities. This area, of course, is Rita Hauser's, and her group is leaning toward not forming a "women's auxiliary" as traditionally has been done in the past. However,

CONFIDENTIAL

CONFIDENTIAL

-8-

any formal suburban or women's operation might ultimately fall under citizens, at least publicly. Rita is in touch with Anne Armstrong at the RNC who is her counterpart there.

- c. Blacks. Len Garment's task force has made basic observations here and will be making formal operational recommendations shortly.
- d. The elderly. A task force headed by Len Garment, George Bell and RNC personnel is working up a comprehensive operational proposal in this area. A memo on approaches to the elderly has already been submitted to you.
- e. The farm vote and agri-business. You have seen John Whitaker's report in this area.
- f. Nationalities and ethnics. Chuck Colson's task force has submitted a report on this area.

In the past, perhaps because of those who headed this activity, nationalities and ethnics were somehow equated with captive nations. Rather than seeking ways to capture the vote of the blue-collar Italian-American, for example, nationalities would sponsor endless series of "free the captive nations" dinners.

Laszlo Pasztor, who was active in this area in 1968, has kept up his contacts as the nationalities man at the RNC. It is our present thought that he and his captive nations work should be left at the RNC through the campaign, and that a non-Balkan be brought on board here to focus on other immigrant groups in states where their votes are important (e.g., the New York Italian-American vote that played a major role in electing Jim Buckley).

It has also been indicated that Tom Pappas will be assisting in this area.

OTHER CONSIDERATIONS

1. It was initially thought that a group within the task force would study the areas of direct mail, use of direct mail, demographics, research, polling, and computers, and make recommendations in this memorandum as to what should be done in these areas under the citizens panoply.

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CONFIDENTIAL

-9-

After a brief initial survey, it was decided that any further work in this area would duplicate that already underway in Bob Marik's studies on these subjects. Since this is to be an integrated campaign, it is our opinion that the citizens division can take direction from the "technical division" as to what it should do in terms of mailings, use of White House mail, etc. Furthermore, by placing the decision-making for mass mailings, polling, etc., in the hands of campaign management and its "technical" division, those who have the "big picture" will be able to decide when it would be helpful to have citizens, rather than another division or person, make a mailing or do a poll.

Here again is an example of the way in which we hope citizens will service the campaign -- it will be there to perform the functions which campaign management decides it can do best.

One other important function citizens can perform in this area is to receive and transmit to the "technical" people and campaign management the information it picks up from its various constituencies.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_ Comment \_\_\_\_\_

2. Advertising. Here, our "in-house" advertising unit can service citizens and program its sub-units to place the most effective ads possible. We do not at this time see a need for an advertising function in the citizens operation, although a liaison man to our in-house agency might be warranted later on.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_ Comment \_\_\_\_\_

3. Public relations and media liaison. For the present time, whoever serves the public relations and press needs of this committee can also assist the citizens. Later, however, citizens should have its own press officer, and, still later, its own "information office." This will be necessary to keep citizens credible in the public mind as independent. The Klein communications memorandum deals with this in greater detail.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_ Comment \_\_\_\_\_

4. Administration. Since citizens will function as a division of the campaign, the administrative chores, payroll, personnel, book-keeping, etc., can be handled as would any other segment of the campaign. No administrative staff would be hired for citizens activity exclusively.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_ Comment \_\_\_\_\_

CONFIDENTIAL

CONFIDENTIAL

-10-

5. Mobilization of previous citizens committees. During the last two years, people at the White House have established a number of groups, drawn vaguely on bipartisan lines, to support the Administration. Some, like the Tell-It-To-Hanoi Committee, were formed for the primary purpose of taking out newspaper ads on specific issues such as key votes in the Senate on our Vietnam policy. A group such as this can be mobilized easily because almost all of its members are dedicated supporters of the President. Other groups, such as Americans for Winning the Peace and certain lawyers committees established in various cities throughout the country, are also quite responsive to a direct call from the White House, but, because an attempt was made in establishing these groups to give them a more broad spectrum of support, these groups cannot be mobilized instantaneously. Progressing further, the National Citizens Committee for Revenue Sharing is genuinely bipartisan and supports the President on this program, although many of its members have been critics of the Administration on other points, such as Vietnam. An active mailing operation, including letters from the President on specific issues, thanking group members for their support, has been initiated and should be scheduled for increased activity as we get into the campaign. Although the committees below probably could not be used intact in a practical fashion, the people who participated are a significant potential source for support and leadership in the citizens area of the campaign. Some of the groups which can be utilized in this process are:

- Americans for a Responsible Foreign Policy
- Americans for Winning the Peace
- Citizens for Government Reorganization
- Citizens for the New Prosperity
- Citizens Committee for Peace with Security
- Citizens Committee for Postal Reform
- Citizens for the SST
- Honor America Day Committee
- National Citizens Committee for Revenue Sharing
- Tell-It-To-Hanoi Committee

Representatives of our task force have met with officials of each of these organizations during the summer and their recommendations as to how our national citizens operation ought to function have been taken into consideration in developing this memorandum. We shall attempt, where possible, to mobilize that which presently exists as a result of these activities on behalf of the national citizens effort. Our study has given us a number of suggestions in this connection.

6. Name. We do not need a name for the citizens organization until we are ready to announce it, which is some months away. But at the

CONFIDENTIAL

CONFIDENTIAL

-11-

present time we lean toward "Volunteers for the Re-Election of President Nixon." Depending on the results of the August GOP convention, the name would be adjusted in September of 1972 to make reference to the Vice Presidential candidate.

We feel the term "citizens" is overworked and also conjures up visions of the 1968 Willard Hotel operation in the minds of many. "Volunteers," on the other hand, has not been used as much in the last few presidential campaigns and ties in with the President's volunteerism programs.

There will need to be discussions at a later point as to how that which this memorandum proposes will fit in with Rita Hauser's operation, since she envisions the traditional "women's division" being abolished in favor of a new volunteer operation which would be made up mostly of women, but not exclusively.

What she proposes would fit in with the "vertical" citizens organizations on a state-by-state basis, while the "horizontal" or functional group operation could be headed by our citizens staff man.

7. Budget. It is far too early to project a budget at this time, although \$2,000,000 was selected as a ballpark figure when the first cut of a very rough budget for the entire campaign was initially submitted. One of the first jobs of our citizens staff man would be to put together a proposed budget for citizens activities.

*TWE*  
THOMAS W. EVANS

*R. C. O.*  
ROBERT C. ODLE, JR.

#### Attachments

bcc: Mr. Thomas W. Evans  
bcc: Mr. H. R. Haldeman

MAGRUDER CHRON.  
MAGRUDER SUBJECT  
✓ MAGRUDER WORK

CONFIDENTIAL

## EXHIBIT No. 32

COMMITTEE FOR THE RE-ELECTION OF THE PRESIDENT

1901 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, D. C. 20006  
(202) 333-0920

September 6, 1972

MEMORANDUM FOR:

CHARLES W. COLSON

FROM:

CLARK MacGREGOR *CM*

SUBJECT:

Your Request for the Formation  
of a New Labor Committee

Bill Rhatigan of your office called Glenn Sedam early in August and asked that a dummy committee be established as a vehicle through which a mailing to labor could be funded.

Bill was advised at that time that as a matter of policy new committees would not be formed and that activities should be undertaken under the umbrella of this Committee, budgeted by this Committee, and paid for by the Finance Committee. Bill later called back saying that you insisted that a new committee be organized.

Glenn prepared draft documents that could be filed were a new committee to be registered and forwarded the drafts to Delury. In his forwarding memo he briefly outlined the responsibilities of a chairman and a treasurer under the new law.

Glenn, following the policy set out by me, and by Maury Stans, continued to advise all concerned that a new committee not be registered. Further, he continued to advise that if a new committee were intending to solicit or receive contributions or make expenditures on behalf of the President, that committee must be authorized by Maury Stans to do so. Maury is the only person delegated authority by the President to authorize committees to operate on the President's behalf.

A similar issue arose in August regarding a concerned Vietnam Veterans for Nixon Committee. Glenn responded in the same manner. We later learned, however, that the concerned Vietnam Veterans Committee has undertaken a mailing, and has not registered. This puts them in violation of the law, and presents a potentially embarrassing legal violation for us.

Therefore, I ask that all requests for new committees be directed to me. If I believe there is reason to deviate from our policy of "no more committees" I will discuss it with Maury Stans, and if Maury agrees, we will have the committee properly organized and budgeted.

## EXHIBIT NO. 34

October 12, 1971

Rowland Evans and Robert Novak

## Nixon and Mrs. Gandhi

A FEW DAYS after the visit here of Indian Prime Minister Indira Gandhi Nov. 3-5, private assurances were sent to New Delhi that the United States would start pressing Pakistan to give autonomy to East Pakistan as soon as the Pakistani government reverted to civilian rule late in December.

That assurance, sent to Mrs. Gandhi in hope that she would not invade Pakistan, was never even acknowledged by the Indian government. To President Nixon, the silence from New Delhi was one more piece of intelligence that India did not want to resolve the tragedy of East Pakistan by political-diplomatic means but was dead set on military action.

Placed on the defensive by the press and by Democratic attacks on his handling of the now full-blown India-Pakistan war, President Nixon may some day fully expose nine months of major—but secret—U.S. diplomatic effort to convince Pakistan to give autonomy to East Pakistan and to restrain India. Until he does, the intensity of the

U.S. effort is leaking out in dribs and drabs, the most significant of which was the President's pledge to India to start applying hard pressure on Pakistan's new civilian government due to take over later this month.

The point of delaying full U.S. pressure on Pakistan was obvious: The present military government was too publicly committed against independence for East Pakistan to reverse its position.

In short, Mr. Nixon's secret diplomatic efforts were keyed to a timetable that compelled him to go slow while India's obvious purpose was to force the issue by a military invasion of Pakistan before that timetable could run its course.

That explains the low estate to which India has fallen inside the Nixon administration. Top officials are convinced that while India gave mild lip service to a diplomatic solution that almost certainly would have succeeded, military action had long since been decided on by India to thwart a diplomatic solution.

## Muskie's "Gold"

SEN. EDMUND S. MUSKIE's campaign strategists, eyeing anti-property tax sentiment in California, are considering government-financed Senate hearings on tax problems there to boost the Muskie-for-President campaign.

Specifically, they are discussing the prospect of the Senate Intergovernmental Relations Subcommittee, headed by Muskie, conducting hearings on property taxes during a scheduled Muskie campaign visit to California Dec. 20 and 21.

The timing is crucial, points out a confidential intra-office memorandum by Anna Navarro, who runs public opinion analysis for the Muskie campaign, and Dan Lewis, a Muskie Senate staffer. After Muskie formally announces his candidacy on Jan. 4, the subcommittee hearings would be embarrassingly suspect. Only up until that date, says the Navarro-Lewis memo, can the proposed hearings "take advantage of free TV time before it is too late."

The purely political motive of the hearings shines like

gold, based squarely on the results of Miss Navarro's poll in California. "... Reading over the open-ended responses (by voters polled) ... makes it apparent that property taxes are all important in this crucial state," says the memo. "... Capturing the issue is worth a gold-mine to any candidate."

Miss Navarro and Lewis proposed that the Senate hearings be staged as a TV spectacular, master-minded by Robert Squier, Muskie's resident media expert. They add: "Squier agrees that it would be a brilliant visual event, particularly if we can dramatize the effects of the property tax on elderly homeowners and school children in poor neighborhoods."

Nor do the Muskie staffers think in strictly parochial terms of California. "... Capturing the property tax issue would be great in places other than California," the memo advises George Mitchell, Muskie's top political operative. "Think of all the schools that have closed in the last two years because citizens refused to tax themselves anymore."

PUBLISHED BY THE NEW YORK TIMES

## EXHIBIT No. 35

CONFIDENTIAL

November 17, 1971

MEMORANDUM FOR: MR. JEB S. MAGRUDER  
FROM: HERBERT L. PORTER  
SUBJECT: Our Mutual Friend

Things went well in Los Angeles with our friend. I would like the "green light" to proceed with the second part of the plan. This will involve finding him a "suitable" home.

He is ready, willing, and most able.

Any ideas?

HLP Subject  
HLP Chron



## EXHIBIT No. 36

123-151

Committee for the Re-election of the President

MEMORANDUM

September 8, 1972

Box 83  
Memo from Creep

MEMORANDUM FOR: MR. NICK BUNGATO  
FROM: ROBERT C. ODLE, JR.

Once or twice a day you will get a call from Mr. Chotiner's office in the Reeves & Harrison law firm on the fifth floor of 1701, asking you to deliver envelopes directly to Mr. Haldeman's office on the first floor of the West Wing at the White House.

Please give these requests top priority since the envelopes are very important and time will always be a factor.

Thanks, Nick.

cc: Mr. Andrew Lawrence

bcc: Mr. Jeb S. Magruder  
Mr. Murray M. Chotiner

## EXHIBIT NO. 37

[126-SEPT. 72]

## Additional Distribution of Memoranda

SUBJECT: McGovern - Shriver  
Constitutions

Dailey \_\_\_\_\_

Porter \_\_\_\_\_

LaRue \_\_\_\_\_

Sedam \_\_\_\_\_

Marik \_\_\_\_\_

Shumway \_\_\_\_\_

Miller \_\_\_\_\_

Sloan \_\_\_\_\_

Odle \_\_\_\_\_

Teeter \_\_\_\_\_

Res  
 Dist:  
 yes \_\_\_\_\_

Other \_\_\_\_\_

no \_\_\_\_\_

✓

## COMMITTEE FOR THE RE-ELECTION OF THE PRESIDENT

September 23, 1972

## MEMORANDUM

CONFIDENTIAL/EYES ONLY

FOR: Jeb S. Magruder  
FROM: E. D. Failor  
SUBJECT: McGovern-Shriver Confrontations

On Friday, September 15, 1972, you assigned me responsibility for the above project. Attached is Ken Rietz's report re the above subject matter for the past week.

In addition to the items in the attached, I have personally endeavored to create an encounter between Shriver and a bussing opponent on the bussing issue for today in Las Vegas. Anti-bussing people will be used in this encounter and no Republicans will be surfaced.

Excellent television, radio and print coverage of some of these events has resulted during the past week. Definite pluses for our campaign have resulted from the media coverage. It should be pointed out that other Republican types, undoubtedly, will be copying this week's activities on their own in their localities. We have no control over the activities we do not program.

We have learned the McGovern organization and/or the Secret Service has reacted to our activities. The San Gennaro Festival in Greenwich Village, New York, Saturday night was originally planned as a walking tour of a few blocks by McGovern. However, as a result of the events in Flushing, New York, on Thursday, September 21st, the street walk was cancelled and McGovern spoke in an area that was barricaded off.

I have, and will, maintain continuing supervision over this project. Ken Smith is the key guy from YVP and I will contact other resources.

If you have any questions or suggestions on the above project, please advise.

cg  
macGovern  
attach  
file

September 22, 1972

MEMORANDUM FOR: JEB S. MAGRUDER  
THROUGH: ED FAILOR *Edyfo*  
FROM: KEN RIETZ *KE*

Attached is a report of last week's activities.

Attachment

CONFIDENTIAL

Confidential

From September 15-22, preparation for our activities in providing sign carriers and leafleteers was made in Milwaukee, Chicago, Bergen County, New Jersey, Columbus, Ohio, Detroit, Lansing and Flushing, New York. Chicago and Lansing were dropped because of the closed nature of the candidate's schedule. Busing quotes were distributed in Detroit outside a closed labor meeting. That was the only activity there due to the lack of public appearances. We began work on literature (hand-lettered) on Wednesday after conferring with Ken Kachigan. The following is a city by city report:

September 19 - Milwaukee: A dozen young people carrying signs questioning the candidate's stands and criticizing his remarks about young people (which end is up?) were at the noon downtown rally. While no press coverage was generated, we do know we upset the candidate. With cameras zooming in he asked one of our girls wearing a YVP button "You don't really support Nixon do you?" Her reply was classic: "Yessir. I've had my head examined and I'm for Nixon now more than ever!" Photos of the event are attached.

September 20 - Columbus: The reception for the candidate at the factory (Nixon buttons, hats and the debaters) came about much the same way as in Bergen County, i.e., our people were alerted to check into the schedule and they assisted the senior committee distributing the Nixon material. However, as we know from the evening news and morning page 1 newspaper coverage, it did the job.

September 20-21 - Detroit: As noted previously, mimeographed handouts attacking the candidate's busing stand were distributed to labor members entering closed meetings.

September 21 - New York(Flushing subway situation): Again, we had to scramble for time, but 20 young people turned out with Nixon signs and buttons - some with "Nixon" in Hebrew. The film coverage of this was excellent on the CBS morning news -- no matter where the camera turned, the signs were there along with audible chants of "Nixon Now!" and "Four more years!" throughout the report. Reporter Bruce Morton concluded that it was not a very good stop. We are told an AP wire story reported the presence of young Nixon supporters.

We have activities planned in Seattle on Monday, Los Angeles on Tuesday, San Diego on Wednesday, and Toledo on Friday of next week. Specific events will, of course, depend on the candidate's schedule.

EXHIBIT No. 38

Attachment CRENE C. DAVIDSON  
REGISTRAR

## REGISTRAR OF VOTERS

ALAMEDA COUNTY • CALIFORNIA

December 16, 1971

Mr. Robert J. Walters  
4811 E. Cage (#A)  
Bell, California 90201

Dear Mr. Walters:

This is to acknowledge receipt of your letter dated  
December 14, 1971.

Please be advised that the provisions of Election Code section 223 are permissive. This office has not exercised the provisions of that section. It is our considered opinion that if strictly applied it would cause an undue hardship on the electorate, i. e. disenfranchisement. Consequently our office would not purge American Independent Party voters on our rolls on the basis of returned letters returned to your organization.

Very truly yours,

RENE C. DAVIDSON  
Registrar of Voters.

## Attachment 2

AMERICAN ADVERTISING & SALES CO. 41560 No 303  
 8002 SAN LEON CIRCLE  
 BUENA PARK, CALIFORNIA 90620  
 714-827-0995

DATE: Nov. 13 1971 90-1549 1222

PAY TO THE ORDER OF *Freight & Commission* \$ 200.00  
*Two hundred* DOLLARS

HOLLYDALE OFFICE  
 GOLDEN STATE BANK  
 12135 GARFIELD AVE., SOUTH GATE, CALIF.

Robert J. Walters

⑆1222⑆1549⑆02010569⑆0000020000⑆

FROM: AMERICAN ADVERTISING & SALES CO. 41560 No 339  
 8002 SAN LEON CIRCLE  
 BUENA PARK, CALIFORNIA 90620  
 714-827-0995

DATE: Nov. 26 1971 90-1549 1222

PAY TO THE ORDER OF *Joseph C. Townsend* \$ 200.00  
*Two hundred* DOLLARS

HOLLYDALE OFFICE  
 GOLDEN STATE BANK  
 12135 GARFIELD AVE., SOUTH GATE, CALIF.

Robert J. Walters

⑆1222⑆1549⑆02010569⑆0000020000⑆

AMERICAN ADVERTISING & SALES CO. 41560 No 356  
 8002 SAN LEON CIRCLE  
 BUENA PARK, CALIFORNIA 90620  
 714-827-0995

DATE: Nov. 30 1971 90-1549 1222

PAY TO THE ORDER OF *Joe Townsend* \$ 100.00  
*One hundred* DOLLARS

HOLLYDALE OFFICE  
 GOLDEN STATE BANK  
 12135 GARFIELD AVE., SOUTH GATE, CALIF.

Robert J. Walters

⑆1222⑆1549⑆02010569⑆0000010000⑆

## EXHIBIT No. 39

June 28, 1972

ADMINISTRATIVELY CONFIDENTIAL / EYES ONLY

MEMORANDUM FOR ED FAILOR

An idea that has come from very high sources is that a booklet or small brochure be prepared (with no identification as to who prepared it) on the "McGovern Platform". All the issues should be listed such as labor, national defense, amnesty, pot, poverty, abortion, etc. Under each issue should be the worst possible quote, statement, or reported position by McGovern regarding the issue. 2/2/73

Some of his bland or noncontroversial issues should also be included, but all of the bad stuff should be included. After the booklet is completed, a large distribution should be made to opinion leaders.



W. Richard Howard



## CHAPTER 3

### Use of the Incumbency—Responsiveness Program

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#### I. INTRODUCTION AND OVERVIEW

A significant aspect of the Select Committee's investigation was its inquiry into the administration's programs to use the powers of incumbency to reelect the President. Documents obtained by the committee indicate that this effort—which had as its main vehicle a White House-devised plan known as the Responsiveness Program—was an organized endeavor “to politicize” the executive branch to insure that the administration remained in power.

The scope of this effort was broad and its potential impact considerable. It included, for example, plans to redirect Federal moneys to specific administration supporters and to target groups and geographic areas to benefit the campaign. It entailed instructions to shape legal and regulatory action to enhance campaign goals. It comprised plans to utilize Government employment procedures for election benefit.

Not only were such plans laid, they were, in part, consummated, although departmental and agency resistance to campaign pressures limited the success of these endeavors. Particularly in regard to the expenditure of Federal moneys concerning certain minority and constituent groups were there flagrant abuses of proper governmental procedures. Some of these abuses appear to stem from the improper involvement of campaign officials in governmental decisionmaking.

Several Federal civil and criminal laws appear applicable to the conduct described in this chapter. In fact, a question exists whether the planning and implementation of the responsiveness plan rises to the level of a conspiracy to interfere with the lawful functioning of Government, conduct prosecutable under 18 U.S.C. 371 as a conspiracy to defraud the United States, as that term has been interpreted by the Supreme Court.<sup>1</sup>

The evidence presented below is not exhaustive. While the staff has interviewed over 150 witnesses and reviewed thousands of documents respecting these matters, it has not been able, because of time and staffing limitations, comprehensively to cover all possible areas of investigation. This is particularly the case since the Responsiveness Program was intended to pervade the entire executive branch—including regional offices.

The Select Committee believes, however, that the account presented below is a fair and accurate statement of the parameters of the Responsiveness Program, certain actions taken under its aegis, and other

<sup>1</sup> See section VIII below.

related conduct. It makes this assertion with confidence because much of the evidence obtained respecting these matters is documentary. The account below consists largely of excerpts from the plethora of documents uncovered by staff investigators. The principal documents are appended to this report as are certain relevant executive session transcripts.

The committee's report on these activities concludes with certain legislative recommendations designed to restrain future misuse of Federal resources for political purposes.

## II. EARLY MANIFESTATIONS OF ADMINISTRATION'S INTEREST IN USING THE INCUMBENCY TO AFFECT THE REELECTION EFFORT

Throughout 1971, members of the administration and the campaign team (which began to form in May, 1971) displayed a studied interest in using the resources of the Federal Government to enhance the President's reelection chances. John Dean, testifying in executive session before the committee on June 16, 1973 (p. 38), expressed the concern relayed to him by H. R. Haldeman as to the activities of the White House staff:

It was probably in summer of 1971, to the best of my recollection, that Mr. Haldeman began discussion with me what my office should and could be doing during the campaign. He told me that all the officers in the White House were having discussions and were being told the President's wish was to take maximum advantage of the incumbency; and the White House would reshift itself from the current duties to focus very much on the reelection of the President.

The statements of Messrs. Haldeman and Ehrlichman during committee interviews on January 31, 1974, and February 8, 1974, respectively, also indicate that the President was interested in using the resources of the Federal Government to best advantage in the reelection campaign.<sup>1</sup> The testimony of Patrick Buchanan, discussed in chapter 2 of this report, provides another account of the administration's early interest in utilizing the incumbency for campaign purposes.<sup>2</sup>

This interest is revealed not only by testimony of witnesses before the committee, but also in numerous documents prepared in 1971. A sampling of such documents follows:

1. On January 12, 1971, Jeb Magruder, then a White House staffer, submitted a "Confidential/Eyes Only" memorandum to Attorney General Mitchell regarding political activities in the White House in 1970.<sup>3</sup> The memorandum concluded with the following paragraph under the heading "Resource Development":

Our Administration has not made effective political use of the resources of the Federal Government, the RNC, the White House, and outside groups and corporations. In developing

<sup>1</sup> 18 *Hearings* 8176, 8189-91.

<sup>2</sup> See, e.g., 10 *Hearings* 3940-41.

<sup>3</sup> Exhibit No. 1, 19 *Hearings* 8595.

the structure for the campaign, proper use of these resources should be of primary concern at the outset of the planning.

2. Magruder, apparently at the Attorney General's request, began an examination of the utilization of Federal resources by others in Presidential campaigns. On April 14, 1971, he wrote a "Confidential" memorandum to Dean,<sup>4</sup> which began:

It has been requested that we determine what use Presidents Eisenhower and Johnson and Vice President Humphrey made of resources available in the Federal Government for campaign purposes.

Dean's assistance in this project was requested.

Less than a month later, on May 6, Magruder reported his interim findings to Mitchell in a "Confidential" memorandum entitled "Utilization of Government Resources by General Eisenhower, President Johnson, and Vice President Humphrey."<sup>5</sup> His conclusion as to President Eisenhower's campaign was:

During the actual campaign no use was made of the White House or the Federal Government to specifically work on the campaign other than the normal support activities given General Eisenhower through his position as President.

Magruder, however, concluded that employment of Federal resources by President Johnson and Vice President Humphrey was more extensive.

Under Johnson it has been indicated that he made considerable use of the White House staff and individuals in the departments to work on the campaign. At the present time, I have not been able to get any specific information but, hopefully, will have more concise information in the near future.

Before the convention, Humphrey used many people on his Vice Presidential staff, as well as individuals who were employed by the Cabinet Committees he was in charge of, to work specifically on the campaign. Many individuals remained on the government payroll after the convention and continued to work exclusively on the campaign. As an example, the individual who headed up his veterans activity was employed by the Veterans' Administration and remained with the VA throughout the campaign. Some use was also made of the research facilities at the Census Bureau.

Because this committee's mandate is limited to an examination of the 1972 campaign, no effort has been made to substantiate or refute Magruder's allegations.

Magruder ended his memorandum to Mitchell on a cautionary note:

One reason why both Johnson and Humphrey had an easier time than we would have in this situation is that the control of Congress was under the Democrats and my information is that it was difficult for the Republicans to make much of this issue on the Hill. On the other hand, if we used these resources in the same way Johnson and Humphrey did, with the control

<sup>4</sup> Exhibit No. 2, 19 *Hearings* 8597.

<sup>5</sup> Exhibit No. 3, 19 *Hearings* 8598.

of the Congress in the hands of the Democrats, they could make this an issue.

From a public relations standpoint, it would seem best to restrict the use of government employees to:

1. direct assistance for the President, and
2. to help develop strategy.

They should not get involved in the day-to-day campaign functions.

3. Magruder, however, on May 17, 1971, sent Gordon Strachan, a White House staffer working for Haldeman, a "Confidential" memorandum on "political" use of the "White House computer."<sup>6</sup> And, on June 14, 1971, he forwarded to William Horton<sup>7</sup> a June 3, 1971, "Confidential/Eyes Only" memorandum to Magruder from William Timmons of the White House staff<sup>8</sup> which read:

As you know, Preston Martin is head of the Federal Home Loan Bank Board. He is a California-Nixon Republican and is a little put out that nobody has sought his political advice.

Apparently, he has given a great deal of thought to, and designed, a sound economical plan to use federal resources (projects, contracts, etc.) for advantage in 1972. He has graphs, maps, flow charts, etc., to show how available money can be directed into the areas where it would do the most good. Very scientific, I'm told.

While I have not talked to Preston, I think it would be valuable for you to chat with him about his plan.

The memorandum to Horton, which was also designated "Confidential/Eyes Only," suggested that Horton see Martin and "plug this into your project." The nature of Mr. Horton's "project" is discussed in detail below (item 6, this section). Mr. Martin has stated to the committee that he never devised a plan to use Federal resources for political advantage, and the committee has not uncovered additional evidence that establishes the contrary.

4. The concern respecting use of Federal resources to affect the election is reflected in communications among other White House and campaign staffers. Two "Confidential/Eyes Only" memorandums from Peter Millspaugh, a White House political aide to Harry Dent, to Harry Flemming of the campaign staff dated May 12 and June 23, 1971, are instructive.<sup>9</sup> The memorandums indicate that certain White House and departmental personnel were meeting to consider the use of Government "resources"—particularly Government "patronage"—in the campaign. The May 12 memorandum states:

... A consensus emerged that the range of federal resources must be inventoried and analyzed with perhaps the federal grants area broken out for priority treatment because of the immediate benefits and some budget cycle timing considerations. Additionally, the matter of a delivery system which would put these resources at our disposal on a timely basis was considered to be imperative.

<sup>6</sup> Exhibit No. 4, 19 *Hearings* 8600.

<sup>7</sup> Horton worked for Frederick V. Malek at the White House. Malek, a former Special Assistant to the President, was responsible for the creation of the Responsiveness Program, as subsequently discussed.

<sup>8</sup> Exhibit No. 5, 19 *Hearings* 8605.

<sup>9</sup> Exhibits Nos. 6 and 7, 19 *Hearings* 8606-7.

Attached to the June 23, 1971, memorandum is a document listing the "Basic Types of Patronage" that could be employed for campaign purposes. This document is quoted in full text:

#### THE BASIC TYPES OF PATRONAGE

1. *Jobs* (full-time, part-time, retainers, consultantships, etc.)

2. *Revenue*

—Contracts (Federal Government as purchaser—GSA)

—Grants (do-good programs—EDA, Model Cities, NSF research, etc.)

—Subsidies (needy industries—airlines, etc.)

—Bank Deposits (all Federal accounts)

—Social Need Programs (direct benefit to citizen, i.e., Social Security, welfare, etc.)

—Public Works Projects

3. *Execution of Federal Law* (resides mainly in Department of Justice whose interpretive power touches every vested interest).

4. *Information and Public Relations Capacity* (a professional (?) public relations office in each department and agency constitutes an enormous public information apparatus).

5. *Travel* (domestic transportation can be provided by law, foreign travel, international conferences, etc. are available).

5. On October 26, 1971, Harry Dent of the White House staff sent a "Confidential" memorandum to Mitchell and Haldeman reporting on a recent meeting with a group of southern blacks.<sup>10</sup> In a paragraph that presaged later administration activity, Dent wrote:

3. Grant recipients are by and large Democrat-oriented groups, said the conferees. I have already been in touch with Phil Sanchez and some Southern black leaders about channeling money to groups whose loyalties lie elsewhere. I have also delayed the promotion of the Southeastern OEO man to the # 3 spot in OEO until he demonstrates proof-positive that he is rechanneling money from Democrats to RN blacks.<sup>11</sup>

6. A significant document that reflects administration interest in 1971 in employing Federal resources is a June 23, 1971, "Confidential" "Discussion Draft" entitled "Communicating Presidential Involvement in Federal Government Programs,"<sup>12</sup> prepared by William Horton of Frederick Malek's staff. This document is also important because it appears a forerunner of the Responsiveness Program concept discussed in the next section of this chapter. Horton prepared this paper under the supervision of Malek who had received a request from Haldeman to consider how the grant-making process could be used to the President's advantage.<sup>13</sup>

The memorandum's initial paragraph recommends that:

<sup>10</sup> Exhibit No. 8, 19 *Hearings* 8613.

<sup>11</sup> Mr. Dent's comments on this document are found at exhibit 8, 19 *Hearings* 8615.

<sup>12</sup> Malek exhibit No. 8, 18 *Hearings* 8348.

<sup>13</sup> 18 *Hearings* 8209.

... [T]he President's direct control over awarding selected grants should be strengthened to ensure that political circumstances can be considered, if appropriate, in making awards.

It then states:

To ensure politically sensitive grant applications receive appropriate consideration, two basic steps must be carried out: (1) determine which grants are politically sensitive and (2) ensure these grants receive positive consideration from OMB and the Departments.

Under the heading "Determination of Politically Sensitive Grants," Horton wrote:

This step should be accomplished in a manner which minimizes the risk of unfavorable publicity and falsely raised expectations. Therefore the possibilities of surveying all pending grant applications or soliciting the opinion of Congressional and local Nixon supporters were rejected.

... Identification should rely on routine contacts with various White House and campaign officials. For example, supportive Senators and Congressmen usually inform the Congressional Relations staff of pending grants which are politically important to them. State and local representatives contact various White House officials in a similar manner. All these inputs should be passed along to Gifford<sup>14</sup> for consideration by the grant coordination group. Based on past experience, the most politically important grant applications are usually brought to the attention of White House or campaign officials. However, especially important localities where no appropriate grants seem to be in process will be checked in the grant initiation process covered below.

This identification process will generate more grants than could be or should be given special consideration. Consequently, priorities must be set.

The memorandum then sets forth a procedure to insure that "the most recent political information and campaign priorities are considered in selecting 'must' grants." Under the heading "Initiating Grants," Horton stated:

In addition to designating "must" grants from pending applications there may be occasions in which political circumstances require a grant be generated for a locality. Once such a locality is identified by the campaign organization, the coordinating group would decide what kind of grant would best meet the needs and available program resources. A campaign representative would then inform the appropriate local official what to submit. When submitted, it, of course, would be designated a "must."

Gifford must rely on the Departments to follow through on "must" grants under their jurisdiction. To accomplish this, a network of Departmental coordinators should be established. These individuals must have two prime qualities: ... loyalty to the President and sufficient authority to insure

<sup>14</sup> The Mr. Gifford referred to is William Gifford, then of the Office of Management and Budget, who served as a clearinghouse for requests and information on Federal grants.

"must" grants are approved and Departmental announcements of all grants conform to the guidelines discussed subsequently.

The memorandum continues:

. . . Gifford must be flexible on pushing a "must" grant in case it turns out to be substantively irresponsible or an obvious waste of government funds relative to other pending grants. In such cases, Gifford should weigh the substantive drawbacks and risk of adverse publicity against the expected political benefits, consulting with others as needed. He should then make a final decision on whether the grant is to be approved. Also, in order to minimize the risk of embarrassment to the President, the volume of grants designated "musts" in any one Department should be limited. Gifford should make these judgments on a month-to-month basis, drawing, naturally, from the grant coordinating group and the Departmental contacts.

It may be a fair reading of the last-quoted passage that Mr. Horton is recommending that, in some cases, grants that are "substantively irresponsible or an obvious waste of government funds relative to other pending grants" should be made if the political reward is sufficiently great. Both Mr. Horton and Mr. Malek disagree with this interpretation. See Malek executive session, April 8, 1974.<sup>15</sup>

The Horton memorandum apparently was transmitted to Messrs. Mitchell, Haldeman, Magruder, Gifford, Millspaugh, and Flemming, among others. Malek has insisted that this document was nothing more than a discussion draft (as the first page of the document indicates) and was not acted upon as outlined here.<sup>16</sup> Malek does not recall that he criticized Horton for the ideas therein presented. He does not recall that disapproval of this document was expressed to him by its various recipients.<sup>17</sup> To the contrary, the memorandums of transmittal for this document found at Malek exhibit No. 8,<sup>18</sup> generally indicate approval of and interest in the program Horton advocated. Moreover, as will become clear in the next section, many of the specifics Horton posited were incorporated into the Responsiveness Program, a plan largely devised by Horton under Malek's direct supervision.

### III. THE "RESPONSIVENESS PROGRAM"—THE ADMINISTRATION'S BASIC PLAN TO EMPLOY FEDERAL RESOURCES TO AFFECT THE 1972 PRESIDENTIAL ELECTION

#### A. THE GENERAL PLAN

The responsibility for developing an overall strategy respecting the use of Federal resources for reelection purposes was given by Haldeman to Malek. On March 17, 1972, Malek submitted to Haldeman a document entitled "Increasing The Responsiveness of The Executive Branch."<sup>19</sup> The document, which was initially drafted by William Horton and designated "Extremely Sensitive—Confidential," constituted Malek's broadview conception as to how the Federal bu-

<sup>15</sup> 18 *Hearings* 8219.

<sup>16</sup> 18 *Hearings* 8211.

<sup>17</sup> 18 *Hearings* 8220.

<sup>18</sup> 18 *Hearings* 8348-51.

<sup>19</sup> Malek exhibit No. 4, 18 *Hearings* 8311.

reaucracy could be put to work for the President's reelection. His plan subsequently received Haldeman's approval.<sup>20</sup>

This memorandum gives a clear picture of the scope of the plan, demonstrating that the proposal was to shape diverse types of administration activities to meet reelection needs. For example, election requirements were to be taken into account in: The letting of Government grants, contracts, and loans; the bringing and prosecution of legal and regulatory action; the making of administration personnel decision; the determination of the issues and programs to be stressed by the administration; the communicating of administration activities to the voting public.

The use of Federal funds for reelection purposes received particular attention. Under the heading "Present efforts tap only a fraction of the total potential," the document says:

The Department of Commerce provides a good example. To date Gifford has made some 35 requests. Most of these involved expediting the normal grant reviewing process and securing the release of information. Approximately a dozen of these requests resulted in favorable grant decisions (which otherwise would not have been made) involving roughly \$1 million. Politically these actions have been most beneficial.

Nevertheless, in spite of this achievement, the potential is much greater. In the Commerce Department, for example, there is nearly \$700 million in funds remaining in this fiscal year and over \$700 million in next fiscal year which could be redirected in some manner. The major areas of potential for fiscal year 1973 are: Economic Development Administration, \$275 million; Regional Action Planning Commissions, \$40 million; Minority Business Enterprises, \$38 million; National Oceanographic and Atmospheric Administration, \$100 million; and the Maritime Administration, \$230 million. Even if only 5 percent of this amount can be rechanneled to impact more directly on target groups or geographic areas, it would be a substantial increase over the current efforts.

To capitalize upon such opportunities, the Departments must initiate action themselves. This would entail each Department developing a program by which it would systematically but discreetly seek out opportunities for improving services to target groups and geographic areas and then insure that appropriate action is taken.<sup>21</sup>

The document continues:

... [A]s originally envisioned in establishing Gifford's grantsmanship operation, direction to the Departments on politically sensitive operating matters should be centralized in order to utilize this resource most effectively in serving target groups and geographic areas and to reduce the possibility of adverse publicity.

But the program involved much more than the use of Federal monies. Under the heading "Guidelines" Malek stated:

<sup>20</sup> 18 *Hearings* 8209-10.

<sup>21</sup> See further 18 *Hearings* 8230-31.



As a first step, the Departments should be given clear guidelines covering the political priorities, the types of operating decisions which are to be included in the program, and the procedures for planning and tracking progress.

The political priorities would be spelled out in terms of key States and major voting bloc groups upon which Departmental action could have an impact. The Departments would be updated as needed, as the political priorities evolve.

Next, the types of activities covered under this program would be discussed. The major ones, of course, are positive decisions (that is, project grants, contracts, loans, subsidies, procurement and construction projects), and negative actions (that is, taking legal or regulatory action against a group or governmental body, major cutbacks in programs, and relocation of Department operations).

\* \* \* \* \*

Also, under this program, the Departments would be expected to cultivate the leaders of organized groups which are affected by the Department to gain the support of their groups for the President's reelection. Similarly, the Departments would be expected to take discreet and subtle steps to gain employee support of the President's reelection.

Particularly important to the present study is the clear prescription in this document that "legal or regulatory action" should be shaped to benefit the campaign effort. In this regard, the memorandum quoted in the previous section that referred to legal actions by the Department of Justice as a form of "patronage" to be utilized for campaign purposes should be recalled.<sup>22</sup>

The March 17 document recommended further that the Departments be given certain responsibilities to implement the responsiveness plan.

Each Department should be required to develop a plan to insure operating decisions reflect the priorities to the greatest extent possible. The plans would outline what amount of discretionary resources in each area identified above will be allocated to priority areas and groups along with a timetable and responsible individual. Also included would be steps planned for strengthening control over the relevant operating decisions, the announcement process, and the public relations improvements. Finally, the plan would cover actions for cultivating organized groups and for gaining the support of Departmental employees.

Various White House and OMB staffers were assigned responsibilities. For example:

... Gifford would work with Fred Malek and his staff in establishing and supervising the Departmental programs. Gifford would be the principal contact for operating matters with the Departments, communicating to the Departments the political priorities as well as the "must" operating decisions. Also, he would participate in presenting the guidelines

<sup>22</sup> 18 *Hearings* 8610.

discussed earlier to the Departmental contacts, reviewing the Departmental plans, and evaluating progress reports.

Mr. Gifford, however, has represented to the Select Committee that he played no significant part in either the planning or the implementation of the Responsiveness Program. He did remark that he advised Cabinet officers as a general matter to make expenditures in areas where it would be of value to the President. Mr. Horton has stated that Mr. Gifford was involved in implementing the concepts in the March 17 memorandum.

The Responsiveness Program was to be kept secret with efforts taken to insure that the President and the White House were not connected with it. Under the heading, "Possible Drawbacks," the March 17 memorandum states:

The most significant drawback of the program is, of course, the risk of adverse publicity. Naturally, steps would be taken:

(1) To insure that information about the program itself and the Departmental plans would not be leaked; and (2) keep the President and the White House disassociated with the program in the event of a leak.

First, written communications would be kept to a minimum. There would be no written communications from the White House to the Departments—all information about the program would be transmitted verbally. The only written material submitted by the Departments to the White House would be the plans. These would be in a brief outline format and only two copies would be permitted—one for the White House and one for the Departmental contact. Progress reports would be verbal.

Second, the documents prepared would not indicate White House involvement in any way. Also, oral and written communications concerning the program within the Department would be structured to give the impression that the program was initiated by the Department head without the knowledge of the White House.<sup>23</sup>

The memorandum concludes with the statement that the Departments "must be given a clear understanding [that] the program [has] the President's full backing." Malek, however, has testified that he did not know if the program did, in fact, have the President's "full backing."<sup>24</sup> Mr. Haldeman has stated that he does not recall discussing the specifics of the program with the President.<sup>25</sup>

Malek's concept of the Responsiveness Program is also contained in other documents that are appended to this report as exhibits:

1. A December 23, 1971, "Confidential" memorandum from Malek to Haldeman entitled "Redirecting the White House Staff to Support the President's Re-Election."<sup>26</sup>

2. Another "Confidential" memorandum of the same date and similar title from Malek to Kenneth Cole of Ehrlichman's staff.<sup>27</sup>

<sup>23</sup> See further 18 *Hearings* 8229-30.

<sup>24</sup> 18 *Hearings* 8210.

<sup>25</sup> 18 *Hearings* 8180.

<sup>26</sup> Malek exhibit No. 5, 18 *Hearings* 8320.

<sup>27</sup> Malek exhibit No. 5, 18 *Hearings* 8320.

3. A "Confidential" memorandum from Malek to Haldeman dated January 28, 1972, entitled "My Role in Support of Re-election."<sup>28</sup>

4. An undated "Confidential Eyes Only" memorandum (the text indicates it was written in January or February 1972) from Malek to Haldeman entitled "Organizing For And Implementing New Responsibilities." A number of comments in Haldeman's handwriting are found on this document. Attached to this memorandum is a "Confidential" organization chart setting forth Malek's role in the campaign which he has confirmed as accurate in most essential particulars.<sup>29</sup>

5. A "Confidential" memorandum dated February 16, 1972, to Mitchell and Haldeman from Malek entitled "Meeting To Discuss My Role."<sup>30</sup> (The meeting referred to was with Ehrlichman and George Shultz.)

6. An April 28, 1972, document entitled "John Mitchell Briefing On Responsiveness" designated "Draft-Confidential." This document was prepared by Frank Herringer, another Malek staffer.<sup>31</sup>

7. An undated memorandum containing Malek's handwriting entitled "Administration Efforts In Support Of The Re-election" prepared in May 1972, and used for briefing White House constituent group project managers and CRP voting bloc directors.<sup>32</sup>

These documents need not be discussed in detail, but several comments are in order. First, the memorandums indicate that the Responsiveness Program was viewed as a potentially significant part of the reelection effort as the following quotations indicate: "Department Responsiveness: This is potentially one of the most productive activities we will undertake."<sup>33</sup> "Potentially, one of our most significant advantages over the opposition is incumbency—if it is used properly."<sup>34</sup> Haldeman, during the staff interview previously referenced, stated that he was "serious" about sensitizing the bureaucracy to political considerations.<sup>35</sup>

Second, these documents demonstrate that the goal of the Responsiveness Program was "to politicize" the executive branch. Thus, Malek, in discussing his potential campaign role, suggested that someone was needed to "[t]ake the lead in the program to politicize Departments and Agencies" and to "supervise the patronage operation and closely monitor the grantsmanship project to insure maximum and unrelenting efforts."<sup>36</sup> A fuller statement of this concept is contained in the December 23, 1971, "Confidential" memorandum from Malek to Haldeman.<sup>37</sup> After noting that a basic campaign objective was to "politicize" the bureaucracy, Malek, under the rubric "Politicizing the Executive Branch," wrote:

As you have pointed out, the President's unique asset in the forthcoming campaign is his control of the Executive Branch. The White House must ensure that the President is able to capitalize fully upon this asset.

<sup>28</sup> Malek exhibit No. 1, 18 *Hearings* 8291.

<sup>29</sup> See 18 *Hearings* 8203; Malek exhibit No. 3, 18 *Hearings* 8305.

<sup>30</sup> Malek exhibit No. 2, 18 *Hearings* 8297.

<sup>31</sup> Malek exhibit No. 7, 18 *Hearings* 8342.

<sup>32</sup> Malek exhibit No. 15, 18 *Hearings* 8370.

<sup>33</sup> See item 4 above; Malek exhibit No. 3, 18 *Hearings* 8305.

<sup>34</sup> See item 6 above; Malek exhibit No. 7, 18 *Hearings* 8389.

<sup>35</sup> See 18 *Hearings* 8176; see also Ehrlichman interview, 18 *Hearings* 8187, 8189.

<sup>36</sup> See item 3 above; Malek exhibit No. 1, 18 *Hearings* 8291.

<sup>37</sup> See item 1 above; Malek exhibit No. 5, 18 *Hearings* 8320.

As you know, we have already initiated programs to derive greater political benefit from grants, communications, and personnel. Also, as discussed above, we will soon be establishing firm White House control over the handling of key issues and constituent groups. These White House directed efforts will control the key Executive Branch operations having the highest potential political payoff. In addition, we should take action to ensure that the day-to-day Departmental operations are conducted as much as possible to support the President's re-election. Since it is impossible for the White House to directly control day-to-day activities, we must establish management procedures to ensure that the Departments systematically identify opportunities and utilize resources for maximum political benefit.

To illustrate potential political activity by Departments and Agencies, Malek stated:

For instance, GSA might undertake the following:

- Emphasize building construction in key States, cities, and counties.
- Expedite disposal of property for parks and schools in key States.
- Emphasize dual fuel programs in ecology-minded areas of key States.
- Emphasize minority procurement in those States and areas where there is a real opportunity to win some of the Black vote.

And he noted that:

Politicizing the regions, which we have discussed, would be a natural byproduct of this program, since the regions would carry the major burden of implementing these politically helpful actions.<sup>38</sup>

Malek, however, had reservations about referring to his plan as a "politicizing" operation. In the same memorandum, he suggested:

Naturally, carrying out this program, even if done discretely, will represent a substantial risk. Trying to pressure "non-political" civil servants to partisanly support the President's re-election would become quickly publicized and undoubtedly backfire. Consequently, the strategy should be to work through the top and medium-level political appointees who exercise control over most of the Departmental decisions and actions.

Also, to minimize any direct links to the President, there should be no directions on this project in writing, and most of the initiative should come from the Department Heads themselves. (In fact, as this concept is refined further, I propose we stop calling it "politicizing the Executive Branch," and instead call it something like strengthening the Government's responsiveness.)

This last suggestion was eventually followed and the concept became known as the Responsiveness Program.<sup>39</sup>

<sup>38</sup> See also Malek's testimony at 18 *Hearings* 8232.

<sup>39</sup> Mr. Malek's testimony as to this document is found at 18 *Hearings* 8213.

Mr. Malek has described the Responsiveness Program as more benign than these documents suggest. According to Malek, its main thrust was to insure that the departments and agencies, taking all factors into account, serviced deserving groups and then properly communicated their good works to the voting public.<sup>40</sup> His account, however, should be compared with the description of the program in public testimony of William Marumoto, a White House aide connected with the Responsiveness Program:<sup>41</sup>

Senator TALMADGE. What was the responsiveness group?

Mr. MARUMOTO. As I explained this morning, this was a group of four or five gentlemen who initially were under the leadership of Mr. Malek and later under the leadership of Dan Kingsley, who were responsible to and working with various special interest groups under Mr. Colson's operation as well as our personnel operation to make sure that the various departments and agencies were responsive to requests that went to them from the White House on personnel matters, publicity, public relations, and grants and contracts.

Senator TALMADGE. Simplified, it was a group to take maximum political advantage of public dollars that were awarded in the form of public grants and contracts, was it not?

Mr. MARUMOTO. A system to facilitate some of our requests.

Senator TALMADGE. "Facilitate"—what do you mean by that?

Mr. MARUMOTO. Try to get through the bureaucratic red tape.

Senator TALMADGE. In other words, my statement is correct. It was to maximize the advantage of the American taxpayers' dollars in a political effort, was it not?

Mr. MARUMOTO. Yes.<sup>42</sup>

## B. THE PLAN AS CONCEIVED WITH PARTICULAR REFERENCE TO MINORITY GROUPS

As discussed in section V, there was much activity of the responsiveness ilk in connection with minority-oriented Federal programs. Because of this—and because of the considerable detail in which they were set out in written form—it is useful to discuss separately the specific plans to use the incumbency that were formulated to appeal to Spanish-speaking and black constituents.

### 1. SPANISH-SPEAKING PLANS

The basic strategy for using Federal resources for campaign purposes regarding Spanish-speaking voters was outlined in a confidential document entitled "The Campaign To Re-elect the President, The Plan To Capture the Spanish Speaking Vote"<sup>43</sup> prepared in early 1972 by Alex Armendariz, head of the Spanish-speaking voters division at CRP. Under the heading "Implementation Tools," Armendariz wrote:

<sup>40</sup> See, e.g., 18 *Hearings* 8216, 8242–43, 8261–62.

<sup>41</sup> See sec. V.A. below.

<sup>42</sup> 13 *Hearings* 5318–19.

<sup>43</sup> Exhibit No. 9, 19 *Hearings* 8627.

*Use the incumbency to the greatest extent possible* to stroke this community over the next several months through appointments, grants, program development, accelerated program implementation, and publicity of the President's record through the departments and agencies. [Emphasis in original.]

And on page 13 he noted :

The purpose of the White House Spanish Speaking Constituent Group Task Force is to mobilize the resources of the Executive Branch in support of the campaign effort. This task force is responsible . . . for obtaining Spanish speaking personnel appointments, grants and other program initiatives. . . .

Tab G of this document, entitled "Capitalizing on the Incumbency," is particularly important and is set forth in full text :

Substantial assistance to the Spanish speaking campaign can be provided through use of the control of the Executive Branch. Through this control, we can fill in any gaps in the President's record and generate favorable publicity for the campaign persuasion effort. In addition, a number of Spanish speaking programs are sources of political information.

Bill Marumoto is responsible for submitting a plan to capitalize on the incumbency by May 1. The elements of this plan will be directed to achieving the following end results :

1. To develop specific ideas for using grants, personnel appointments and programs to fill out any gaps in the President's record, e.g., appoint a Mexican American to a regulatory commission.

2. To set up organizational procedures and contacts with the appropriate White House Staff members and the Executive Branch for accomplishing the above steps.

3. To provide the campaign team with up to date information on all programs directed at the Spanish speaking community.

4. To use the Departments and Agencies public information offices to publicize favorable Administration activities in behalf of the Spanish speaking.

5. To ensure that those Federally subsidized programs which serve as havens for opposition political operatives are closely supervised so that they are devoting all their energies toward solving the problems of the Spanish speaking poor (particularly in September and October).<sup>44</sup>

Mr. Marumoto has testified that he prepared and submitted the plan referred to in the above document.<sup>45</sup> The Select Committee, however, has not obtained a copy of this plan. But the detailed account in section V.A. of this chapter of the actual conduct that occurred regarding the Spanish-speaking community presents a comprehensive view of the type of activities encompassed by the above outline.

<sup>44</sup> See exhibit No. 262-1, 13 Hearings 5532.

<sup>45</sup> 13 Hearings 5279.

## 2. BLACK PLANS

The overall plans to use the incumbency to achieve black support in the 1972 campaign appear in several documents. The earliest is a "Confidential," "Final" document, dated March 15, 1972, and entitled "Campaign Plan—A Strategy for the Development of the Black Vote in 1972."<sup>46</sup> Significant for present purposes is a paragraph that appears at pp. 23-4 of this document under the heading "Use of Administration Resources":

To augment organizational efforts it is proposed to make use of Administration resources to provide visible support of deserving projects. With team members working closely to monitor economic and social programs a selective funding approach will furnish encouragement incentives for Black individuals, firms and organizations whose support will have a multiplier effect on Black vote support for the President. This will call for working with OMBE, SBA, Department of Labor, OEO, HUD, HEW and the Justice Department. What we do economically will be a vital key politically.

The "team" referenced in this paragraph is identified at p. 21 of this exhibit:

In order to assure maximum coordination from the out-set a team approach to implementation of strategy and execution of the plan of action will be used. The team coordinating efforts will include Robert Brown, Special Assistant to the President; Stan Scott, White House Communications Staff Member; Ed Sexton, RNC; Samuel Jackson, Assistant Secretary of HUD (representing the Council of Black appointees); and Paul R. Jones, Black Vote Division Executive Director. It is anticipated that this group will meet regularly on a weekly basis and inter-act daily as needed.

This memorandum concludes (at p. 24):

In support of staff efforts it is proposed that emphasis be placed on closer control of grants, loans, contracts and appointments—especially from socially-oriented Departments and agencies. What the Administration does economically is key. The major issues of concern to the rank and file Black voter are those which have an economic base. They are concerned about those things that affect day to day livelihood and well-being.

Testimony taken by the Select Committee establishes that this document was probably the composite product of several contributors, among whom were Paul Jones of CRP and Robert Brown of the White House.<sup>47</sup>

The use of administration resources in the black area was spelled out in greater detail in a "Confidential" June 15, 1972, memorandum from John Clarke to Malek entitled "Black Vote Field Plan."<sup>48</sup> At pp. 5-6, of this document, the following passage appears:

<sup>46</sup> Exhibit No. 10, 19 *Hearings* 8713.

<sup>47</sup> Jones executive sessions, Feb. 26, 1974, pp. 182-84.

<sup>48</sup> Malek exhibit No. 23, 18 *Hearings* 8411-12.

### Special Activities: Grants and Government Resources

At the present time, Bob Brown and his staff are handling the grants activity. To date, they have identified all Blacks who are receiving, or have received, money from this Administration. These recipients are being utilized as a source of campaign contributions and volunteers and as a vehicle for getting our appointees invited to various Black events as speakers and participants. They also form an excellent group of visible Blacks and they are being used to reach the voters in their areas of influence.<sup>49</sup>

In addition to the above results, Bob and his staff are actively seeking out other projects that could be funded to the benefit of the campaign. They are specifically looking for projects that will impact heavily on Blacks due to voter appeal and Black involvement. To date, they have been very successful. In this area, a local Black building contractor (Jack Crawford) has developed a program for identifying potential projects, getting them funded through Bob's office and, in return, obtaining a strong vote commitment for the President from the recipient. This plan is being actively pursued at present. Another specific project that is underway is the identification of all remaining grant and loan moneys with a view to carefully allocating those funds to projects which will impact most heavily on black voters.<sup>50</sup>

Finally, Bob and his staff are working closely with Dan Kingsley to identify various advisory boards and commissions and job openings which can be filled by visible Blacks.

Even with the accomplishments so far, more work needs to be done in this area and plans are currently being drawn to more effectively develop and coordinate this activity.

The "Crawford Plan" mentioned above is found at exhibit No. 11.<sup>51</sup> The plan, at p. 2, states:

In order to obtain endorsements from . . . local Black leaders who will in all probability be at least nominal Democrats, some inducements will need to be offered. The inducements could be federal financial from the normal grant-in-aid programs administered by HEW, HUD, OEO, DOL, SBA, EDA, OMBE, and USDA.

The [recommended] locally based national representative (assisted by Black representatives of the various federal agencies) will be able to offer federal aid grant assistance to those leaders who are willing to endorse the President or at least make positive statements concerning the higher level of assistance currently being enjoyed by his institution under this administration.

<sup>49</sup> Mr. Brown in executive session denied that he utilized black recipients of Federal funding as a source of campaign contributions. Brown executive session, May 13, 1974, pp. 46-49.

<sup>50</sup> Brown also denied seeking out projects that could be funded for the benefit of the campaign. (Brown executive session, p. 47.) Mr. Crawford, in executive session, testified that, while he had developed the program referred to above, he was not "actively pursuing" it at the time of this memorandum. (Crawford executive session, Feb. 7, 1974, pp. 40-42.)

<sup>51</sup> 19 *Hearings* 8745.



In addition, Crawford recommended (pp. 3-4) that:

There should be a "White House" representative who can facilitate assure [sic] the delivery of federal grant-in-aid funds to leaders who endorse the President and the Administration's efforts to improve the lot of Blacks. This liaison man is charged with coordination of the federal agency personnel who are in turn charged with determining assistance needed by the institution.

During his Executive Session, Mr. Malek testified that he did not recall receiving or seeing a copy of the "Crawford Plan." However, as exhibit No. 11 demonstrates, the plan was sent on June 26, 1972, to Malek by Robert Mardian, a CRP official who is a former Assistant Attorney General for the Internal Security Division, with the suggestion that he and Malek meet with Crawford to discuss the matter.

Of the same date is a memorandum from Malek to John Mitchell entitled "Black Vote Campaign Plan."<sup>52</sup> Under the heading "Intensify Efforts To Utilize Government Grants and Loans" are the following paragraphs:

I feel that our strongest selling point with Black voters is the economic assistance this Administration has provided to Blacks. To fully capitalize on this, we have to do a better job of publicizing the grants already given and of identifying new projects for which we will receive maximum impact.

The major portion of the responsibility for this activity falls on the White House side of the Black team. Bob Brown and his staff have identified all Blacks who are receiving, or have received, money from this Administration. These recipients will be utilized as a source of campaign contributions and volunteers, and as a group of highly visible Blacks to be used to reach the voters in their areas of influence.

Effective allocation of new grants requires close coordination between the White House and the Campaign team. As a first step, I have asked Bob Brown to identify all major sources of grant and loan moneys which could be allocated to Blacks. Then, Jones and Sexton, working through their field organization, will be responsible for finding recipients in key cities who will be supportive of the re-election effort.

\* \* \* \* \*

I believe that by strengthening our field organizations and making better use of grants and loans, we can overcome the problems of the Black Vote Division, and make some inroads on Black voters in November. I will keep you apprised of progress.

Malek testified he was not certain that this document was actually read or approved by him or forwarded to Mitchell; however, he did not deny sending it to Mitchell. He stated that normally memorandums would not be sent to the campaign director over his name unless he had read and approved them. The committee, subsequent to Mr. Malek's testimony, discovered another copy of this document in Clark

<sup>52</sup> Malek exhibit No. 24, 18 *Hearings* 8414.

MacGregor's CRP files that was initiated by Mr. Malek.<sup>53</sup> Malek did not recall Mitchell's expressing disapprobation of the plans set forth in this memorandum.<sup>54</sup>

#### IV. COMMUNICATION OF THE RESPONSIVENESS CONCEPT TO GOVERNMENT AND CAMPAIGN OFFICIALS

The significance with which the Responsiveness Program was perceived is evidenced by the efforts taken to inform key Government and campaign officials of the workings of the program. The most important of these briefings are now discussed.

1. The various Malek documents referenced in the previous section suggest that key White House and OMB staffers such as Ehrlichman, Shultz, and Ken Cole were made aware of responsiveness concepts. Haldeman was particularly of the mind that Ehrlichman and Shultz should be informed about, and approve of, the responsiveness plan. In his handwritten comments on a memorandum to him from Malek<sup>55</sup> he stated, in the margin by Malek's paragraph on "Department Responsiveness," that "Prob here is essential support of E&S—q. whether they really fully understand & agree to this whole deal. E esp is the key to dealing w/depts. & must be on board 100%." However, in an interview with the committee's staff on February 8, 1974, Mr. Ehrlichman stated he had little knowledge of the Responsiveness Program.<sup>56</sup> Mr. Shultz, in a staff interview, likewise asserted only passing familiarity of responsiveness activities. Mr. Shultz did state that he saw one memorandum written by Malek concerning the Responsiveness Program, decided it was a "horrible" idea, and transmitted this view to Mr. Haldeman.

2. Shortly after the program was approved, key departmental and agency personnel were briefed on its precepts. In a "Confidential Eyes Only" memorandum entitled "Responsiveness Program—Progress Report" attached to a June 7, 1972, memorandum from Malek to Haldeman,<sup>57</sup> Malek stated:

Thus far, the program is on schedule. I have now reviewed the program with each Cabinet Officer (except Rogers) and with the heads of the key Agencies (ACTION, EPA, OEO, SBA, GSA, and VA). In each session the following was covered:

- Emphasized need to make re-election support the top priority and the need to respond to requests in this regard
- Discussed which States, counties, and voting blocs are considered key and should be targeted by them
- Had them name a top official who would be the political contact for this program (generally the Under Secretary)
- Asked them to educate loyal appointees (including Regional Directors) as to priorities and expectations, thus forming a political network in each Department

<sup>53</sup> Exhibit No. 19a, 19 *Hearings* 8859.

<sup>54</sup> 18 *Hearings* 8259, 8262–63, 8265–66.

<sup>55</sup> Malek exhibit No. 3, 18 *Hearings* 8305.

<sup>56</sup> 18 *Hearings* 8187.

<sup>57</sup> Malek exhibit No. 16, 18 *Hearings* 8380.

- Asked them to review all their resources and develop a plan for maximizing impact of these resources in key areas
- Indicated particular areas in their Departments that require special attention
- Established my office as the channel of communications with the campaign and stressed that we would work solely through Bill Gifford on grant requests.

In line with this last point, two members of my staff (Stan Anderson and Rob Davison) have been relieved of other responsibilities to concentrate on this. They have now held follow-up meetings with the Secretary's designee in most Departments to discuss the program in more detail and begin development of the Department Action Plans. These sessions will be completed in the next few weeks. In addition, I have held follow-up meetings with the top political appointees and with the Regional Directors in several Departments. I will hold additional meetings of this sort over the next few weeks.

Mr. Malek testified before the Select Committee that, in his briefings with department and agency chiefs, he employed colorcoded maps that depicted target groups and geographic areas where Government resources should be concentrated for campaign purposes. Listings of various Government officials contacted respecting the Responsiveness Program by Malek and his associates are found at Exhibit 12.<sup>58</sup>

Malek also provided Haldeman, in the June 7 memorandum, with an assessment of the success of his briefings:

The response to date has been fairly good, particularly at the second echelon. The reaction of some in the Cabinet (e.g., Romney and Hodgson) was that they were, of course, already considering political ramifications and there is little more that can be done. Our approach here is to concentrate on the Under Secretary and other Presidential appointees, where the job gets done anyhow. Others, such as Volpe, Peterson, and Butz, have been quite receptive and should be real assets to the program.

3. John Mitchell and other key aides at CRP were briefed.<sup>59</sup> The briefing memorandum prepared for the Mitchell session (Malek exhibit No. 7) indicates that Mitchell was informed in detail of the information meetings held with the department and agency heads. Malek testified that this briefing paper "probably clearly represents" his discussion with Mitchell.<sup>60</sup>

4. Stanton Anderson and Frank Herringer briefed the White House constituent group project managers and the CRP voting bloc directors on the various facets of the administration's plans "to take advantage of the incumbency to the maximum degree possible" during a meeting at Camp David on May 25 and 26, 1972. Various documents appended to this report reflect the nature of that meeting and its participants.<sup>61</sup>

<sup>58</sup> 18 *Hearings* 8230, 19 *Hearings* 8748.

<sup>59</sup> See Malek exhibits Nos. 7 and 15; 18 *Hearings* 8342 and 8370.

<sup>60</sup> 18 *Hearings* 8232.

<sup>61</sup> See Malek exhibit No. 14-15, 18 *Hearings* 8367 and 8370.

This meeting is of particular importance because it was attended by key aides in the Spanish-speaking, black and old age areas where there was considerable responsiveness-type activity.

The briefing paper used at this meeting has been previously referenced.<sup>62</sup> It parallels other documents already discussed with several significant additions. The participants were apparently asked to "be alert to opportunities to utilize the resources of the incumbency to improve our position with your constituent group." It appears that they were instructed to attempt "to come up with a list of ten or so persons from your groups that you would like to see placed" in Government positions for campaign purposes by the White House personnel office. This group was also apparently told that:

In a one-shot effort, all major grants and construction decisions for next fiscal year (72-73) were reviewed prior to the finalization of the budget to ensure that to the extent possible they impacted on politically beneficial areas.<sup>63</sup>

5. Finally, certain State chairmen for the Committee To Re-Elect the President from "first and second key priority States" received a briefing on the Responsiveness Program.<sup>64</sup> The major purpose underlying this briefing was to encourage politically oriented requests for Government action from these campaign officials.<sup>65</sup>

## V. RESULTS OF THE RESPONSIVENESS PROGRAM AND OTHER RELATED ACTIVITIES <sup>66</sup>

### A. ACTIVITIES RESPECTING THE SPANISH-SPEAKING

The portion of the Responsiveness Program presented in public testimony involved activities in the Spanish-speaking community. On November 7, 1973, William Marumoto, former staff assistant to the President, testified concerning the wide ranging attempts on the part of certain White House and campaign officials to divert Federal resources to organizations and individuals in the Spanish-speaking community to assist the reelection effort.<sup>67</sup> His testimony and other evidence in the Select Committee's possession appear to demonstrate a concerted effort to reward certain administration friends and penalize its opponents.

Marumoto's testimony prompted the following statement by Senator Montoya:

[I]n view of the motive that permeates the planning and blueprint of this mission and the testimony of the witness, I feel very much obligated to comment on the incredible insult that the administration has perpetrated on the Spanish-

<sup>62</sup> See section III.A., *supra*.

<sup>63</sup> See Malek exhibit No. 15, 18 *Hearings* 8371; see also 18 *Hearings* 8219, 8224-25, 8233.

<sup>64</sup> Malek exhibit No. 13, 18 *Hearings* 8366, reflects the suggestion for and approval of such a briefing; note Malek's handwritten comments.

<sup>65</sup> See further, 18 *Hearings* 8214-15.

<sup>66</sup> This section includes descriptions of certain activities which were not the direct result of the Responsiveness Program, but that are related in character to those actually conducted under its banner.

<sup>67</sup> Marumoto's testimony gives substance to the conclusion reached in a Nov. 14, 1972, final "Campaign Report" from Alex Armendariz of CRP to Robert Marik that:

The incumbency was utilized to the greatest advantage as possible through appointments, grants, accelerated program implementation, and publicity of Administration programs through the Federal department and agencies. (See exhibit No. 13, p. 4, 19 *Hearings* 8758.)

speaking people of this country by this blatant attempt to buy the Spanish-speaking voters. They are not for sale in this country. There was a concerted effort to try to convince them that there was money in the trough if they just lined up, and the Spanish-speaking people of this country are not that kind of voter.<sup>68</sup>

According to the 1970 census, there were then more than 10 million Spanish-speaking citizens in this country. The plan to capitalize on the incumbency with respect to this community was an attempt to gain support, votes, and contributions regarding a constituency that had been "heavily Democratic in the past."<sup>69</sup> The administration concentrated its efforts in this regard on such States as Florida, Texas, and California where the greatest number of Spanish-speaking citizens reside. The major activities discovered by the committee are now discussed.

#### 1. ORGANIZATION OF SPANISH-SPEAKING EFFORT

The leaders of the Spanish-speaking effort during the 1972 Presidential campaign included officials at the White House, the Cabinet Committee on Opportunities for the Spanish-speaking People (an independent office in the executive branch more fully described below), and the Committee To Re-Elect the President. For clarity, the major figures involved are identified:

William Marumoto, former Staff Assistant to the President, was involved at the White House in a wide range of activities, including recruiting for Federal employment (particularly from minority groups), assisting Spanish-speaking firms and organizations in obtaining Federal funds, and public relations for Spanish-speaking efforts and activities.

Antonio F. Rodriguez was Marumoto's assistant in the White House after September 1971. In the period from January to September 1971, Rodriguez was the Chairman of the Cabinet Committee on Opportunities for Spanish-Speaking People.

Henry Ramirez became Chairman of the Cabinet Committee in September 1971.

Carlos Conde, an assistant during 1972 to White House Communications Director Herbert Klein, was involved in the campaign's media plan to reach Spanish-speaking people.

Alex Armendariz headed the CRP Spanish-speaking voters division.

Benjamin Fernandez was the chairman of the National Hispanic Finance Committee, an arm of the Finance Committee to Re-Elect the President (FCRP).

According to Marumoto, the above-named individuals—with the exception of Fernandez—constituted the Spanish-speaking task force. The task force, officially known as the "White House Spanish-speaking Constituent Group Task Force," was, according to Marumoto, an informal arrangement,<sup>70</sup> which met every Monday afternoon during the campaign. While the exact lines of authority concerning these individuals is not certain, it is clear that all of them were heavily involved in attempts to use the incumbency to gain Spanish-speaking

<sup>68</sup> 13 *Hearings* 5308.

<sup>69</sup> Exhibit No. 9, 19 *Hearings* 8617.

<sup>70</sup> 13 *Hearings* 5277.

support. Furthermore, organizational charts prepared separately by Marumoto and Armendariz show the Cabinet Committee, the White House Spanish-speaking unit and the Hispanic division of CRP as part of one overall campaign structure, although on Marumoto's chart he has Armendariz reporting to him while the converse is true on the chart prepared by Armendariz.

## 2. ACTIVITIES INVOLVING THE DISPENSING OF FEDERAL FUNDS

There is substantial evidence that, respecting the Spanish-speaking area, political elements in the administration and campaign committee sought and achieved control over the awarding of certain governmental grants and contracts.<sup>71</sup> When questioned concerning an OEO grant to a Spanish-speaking firm in California, Marumoto testified:

DASH. Now, what was the role of Alex Armendariz from the Committee To Re-Elect the President, which was the political branch of the CRP for the campaign, in meeting with Mr. Blacher of OEO and discussing your grant of \$200,000? Why was he there?

MARUMOTO. He was involved in terms of signing off on any grants.

DASH. When you say "signing off," did that mean he would have to agree?

MARUMOTO. Approve, yes.

DASH. He would have to approve?

MARUMOTO. Yes.<sup>72</sup>

Subsequently, Marumoto, while stating that Armendariz "didn't have [legal] authority, of course, to sign off," testified that Armendariz "had a say" or "input" in the grantmaking process. He then added:

DASH. They expected him to sign off on it and generally if he didn't sign off on it, it wasn't granted.

MARUMOTO. Generally speaking, yes.

DASH. Therefore, it would be fair to say that a very strong outside political influence was introduced in the grantmaking process of the various agencies.

MARUMOTO. Yes.<sup>73</sup>

Armendariz denied involvement in Government grants and disclaimed the power to sign off on Federal awards, stating "I never engaged in specific discussion on any particular grant or contractor of any sorts."<sup>74</sup> When asked about references to his name in reports indicating he was influencing grants, he said the references "worried" him and that he frequently objected to White House staffers Frank Herlinger and Jerry Jones about their inclusion.<sup>75</sup>

Documents obtained by the Select Committee contain numerous indications that the campaign team was interjecting political considerations into the grantmaking process. For example, a March 17, 1972,

<sup>71</sup> White House and campaign committee memorandums reveal political input as to \$60 million in grants considered or actually awarded by the administration regarding the Spanish-speaking community.

<sup>72</sup> 13 *Hearings* 5281.

<sup>73</sup> 13 *Hearings* 5322.

<sup>74</sup> Armendariz, executive session, Feb. 11, 1974, p. 65.

<sup>75</sup> *Id.* at pp. 103-5.

White House memorandum from Marumoto to Colson, entitled "Weekly Report for Brown Mafia, Week of March 13-17, 1972"<sup>76</sup> reads:

Alex Armendariz, Tony Rodriguez and I met with representatives of Harry Dent's, Clark McGregor's (sic) and Bob Brown's offices with the grant officials of OEO to discuss ways of improving coordination and more effective means of getting political impact in the grant-making process. Discussion pointed out the tremendous need for a centralized computer capability for all Departments and Agencies whereby one could obtain data regarding grants to any congressional district, and/or organization.<sup>77</sup>

To cite another example, on March 24, 1972, Marumoto wrote an "Administrative—Confidential" memorandum to Colson (copy to Malek) that stated:

Attended a meeting called by John Evans regarding minority business enterprise. Asked that Armendariz and Rodriguez also be invited. Discussed were recipients of grants for FY 1972 as well as those being considered for additional grants for FY 1972.<sup>78</sup>

In a staff interview, Evans, then a staff assistant in the Office of Domestic Council, described his role as a "liaison with the Departments and Agencies" who was mostly concerned with policy rather than specifics. He did note that he received input from Marumoto and Armendariz, among others, and acknowledged that political considerations played a role in the awarding of grants. He said, for example, that if a recommendation concerning an OMBE grant was made by Marumoto, the application was favored or an explanation given why it was not. The message went out, "Do something with it." Evans stated that while he did not favor funding an unqualified group, he would rely in part on the "team's" recommendations and tend to favor qualified groups who supported the administration over those who did not. Although he was approached by Armendariz, Marumoto, and Ramirez with suggestions that political contributors be funded, Evans said he never became involved with specific grants where that occurred.

Another illustration of the input of political influence in the grant-making process is found in an "Administrative—Confidential" White House memorandum from Marumoto to Colson and Malek dated May 12, 1972, which reads:

Rodriguez and I met, along with representatives from Bob Brown's office and 1701, Under Secretary Lynn and John Jenkins, Director of OMBE, re funding proposals to Spanish Speaking and black groups. This is about the third such meeting we've had to either approve or disapprove funding proposals from OMBE. We are generating some new proposals from the SS in key states.<sup>79</sup>

<sup>76</sup> The term "Brown Mafia" was discontinued following the March 24 report after Malek wrote Marumoto. "Please drop Brown Mafia title—it would look bad if it ever got out." See exhibit No. 262-8, 13 *Hearings* 5543.

<sup>77</sup> Exhibit No. 262-8, 13 *Hearings* 5543. The Select Committee has received no evidence that such computer capability was actually developed.

<sup>78</sup> Exhibit No. 262-9, 13 *Hearings* 5547.

<sup>79</sup> Exhibit No. 262-16, 13 *Hearings* 5576.

*a. Specific Activities To Help Administration Friends*

Numerous memoranda obtained by the committee demonstrate that the Spanish-speaking "team" devoted considerable effort to helping administration friends seeking Federal moneys. For example, in an "Administrative—Confidential" report to Colson and Malek, Marumoto declared:

Rodriguez met with Carlos Villarreal, Administrator of UMTA [Urban Mass Transit Administration], to talk about setting aside specific moneys for some of our Republican SS contractors.<sup>80</sup>

Another example of interest in aiding Spanish-speaking friends is found in an April 7, 1972, White House memorandum from Marumoto to Colson and Malek which stated:

In the grants area, Rodriguez and I are working on the following: Reviewing with John Evans, Bob Brown, and Wally Henley proposals and grants at OMBE to make sure that the right people are being considered and receiving grants from OMBE.<sup>81</sup>

In several cases, the committee attempted to ascertain the circumstances regarding the awarding of particular grants and contracts to the President's supporters. The results of these investigations follow:

(1) *J. A. Reyes & Associates*.—The beneficiary of a number of grants was Joseph A. Reyes. Mr. Reyes was active in the President's reelection effort, particularly regarding fundraising. In fact, Reyes was chairman of the District of Columbia, Maryland and Virginia section of the National Hispanic Finance Committee (NHFC), which was an authorized arm of FCRP formed in 1972 to solicit campaign contributions from Spanish-speaking citizens.

Reyes and his company, J. A. Reyes & Associates, were the subject of several White House "Weekly Activity Reports," forwarded by Marumoto to Colson and Malek. One such "Administrative—Confidential" report, dated May 5, 1972, states:

In the grants area, the following transpired: Department of Transportation: working with UMTA re a \$70,000 grant to J. A. Reyes Associates of Washington, D.C. He is the chairman of the D.C., Maryland, and Virginia section of the National Hispanic Finance Committee.<sup>82</sup>

Reyes, in a staff interview, stated that he had been in the consulting business for approximately 10 years, and that most of his business arose from the section 8(a) program of the Small Business Administration Act. (The purpose of this act is to assist in the expansion and development of small business concerns owned and controlled by eligible disadvantaged persons.) During 1971, Mr. Reyes' firm grossed between \$400,000 and \$500,000; in 1972, his firm's business doubled to \$1 million, all of which was under the 8(a) program. According to Reyes, he received seven or eight contracts and one grant in that year. One such contract was a \$200,000 sole source, noncompetitive agreement

<sup>80</sup> Exhibit No. 262-16, 13 *Hearings* 5578.

<sup>81</sup> Exhibit No. 262-11, 13 *Hearings* 5557.

<sup>82</sup> Exhibit No. 262-15, 13 *Hearings* 5572; see also exhibit No. 262-16, 13 *Hearings* 5576, which is discussed above. Reyes was one of "our Republican SS contractors" referred to in that exhibit.



with OEO awarded in July 1972. Although acknowledging conversations with Marumoto and Rodriguez, Reyes denied knowledge of any efforts by them on his behalf regarding this contract.

In a committee interview, Arnold Baker, former National Project Manager of Field Operations, Migrant Labor Division, OEO, stated that the J. A. Reyes contract with OEO was for an evaluation of and assistance to the emergency food and medical services program and that the contract was given without the demonstration of a need for this evaluation as required by OEO regulations. Baker said that sufficient data and expertise regarding this program had been developed through prior evaluations and it was the unanimous opinion of officials in the unit responsible for consideration of the Reyes proposal that a study was not necessary. Over their objections, the contract was nonetheless awarded.

Baker believes that the award was based solely on political motivations. He stated that the Project Division had decided not to fund Reyes' proposal but, when Peter Mirelez, Director of the Migrant Division, OEO, received word of this decision, he reversed it. According to Baker, sometime after the contract was awarded it was canceled due to substandard work. However, Baker reported that it was reinstated by James Griffith, Director of the Migrant and Indian Division of OEO. Baker stated that this contract was "rammed down the throats" of Department officials, including himself.

The Select Committee also interviewed Dan Cox, a manpower specialist with the Migrant Division, Department of Labor, who formerly was the contract application specialist with the Migrant Division of OEO responsible for evaluating the Reyes contract. Cox agreed with Baker that the contract to evaluate the emergency food and medical services program was not warranted. It was also Cox' belief that J. A. Reyes Associates was not qualified to make the evaluation. In addition, Cox stated that he was told by Peter Mirelez that that contract was a "political payoff."

Mirelez, in an interview, defended the need for the Reyes contract. Mirelez acknowledged that some of his subordinates had questioned the qualifications of J. A. Reyes Associates as well as to the efficacy of its proposal, but Mirelez insisted that his decision was not the result of political influence. Mirelez denied he told Cox that the contract was a "political payoff."

In another interview, James Griffith, now Acting OEO Deputy Assistant Director for Operations, denied any political influence in grant or contract processes at OEO. He did recall, however, certain rumors as to the lack of necessity for the J. A. Reyes contract, but could not remember specifics. Griffith also related that a telegram was sent from the Office of Program Review to Reyes canceling the contract. Griffith felt this action was not programmatically justified, and thus became involved in reinstating the contract.

(2) *Ultra-Systems, Inc.*—Another effort to aid an administration supporter is revealed in an "Administrative-Confidential" White House weekly activity report, dated May 19, 1972, from Marumoto to Colson and Malek:

Rodriguez is assisting Ultrasystems, Inc., of Long Beach, California with a \$200,000 grant from OMBE. This organization strongly supports the Administration.<sup>83</sup>

<sup>83</sup> Exhibit No. 262-17, 13 *Hearings* 5581.

As in the case of J. A. Reyes & Associates, Ultra-Systems, Inc., had strong ties with the National Hispanic Finance Committee. Fernando Oaxaca, vice president of Ultra-Systems, was the NHFC national treasurer.

The proposed OMBE grant to Ultra-Systems, Inc. was also the subject of a White House memorandum dated August 8, 1972, from former White House staffer Nathan Bayer to Armendariz and Rodriguez.

I spoke with John Jenkins this afternoon concerning the current status of your priority OMBE proposals.

In the case of AMEX Civil Systems<sup>84</sup> and Ultra Systems, Inc., John expects to have Requests for Information in their hands by the first of next week. I strongly advise you to encourage them to complete the RFIs as quickly as possible and return them to Jenkins. He assures me that even in the absence of their completion, he will have the investigation and security clearance begun and the audit begun.<sup>85</sup>

In a staff interview, Oaxaca denied that there was any *quid pro quo* involved in the above grant, which was awarded in October 1972. Oaxaca stated that he had applied to OMBE for Federal funding in early spring of 1972. When nothing materialized, he asked Rodriguez, a longtime friend, if Rodriguez knew anyone at OMBE to whom Rodriguez could make an inquiry on his behalf.<sup>86</sup>

#### *b. Action Against Persons Not Supportive of the Administration*

There is evidence that qualified firms that failed to share the administration's political goals and declined to participate in the President's reelection effort were penalized in their efforts to secure Government funding.

References to "unfriendly" or pro-Democratic companies and individuals appeared with some frequency in Marumoto's weekly reports and in other White House CRP documents. Thus, a June 23, 1972, "Administrative—Confidential" weekly report from Marumoto to Colson and Malek reads:

Rodriguez working with Nate Bayer of the Domestic Affairs Council reidentifying SS groups who have applied for federal grants at DOL [Department of Labor] who are unfriendly toward the Administration.<sup>87</sup>

Bayer and Armendariz have both denied to the Select Committee that cutting off contractors and grantees not supportive of the ad-

<sup>84</sup> The owner of Amex Civil Systems, M. Caldera, was a close associate of both Rodriguez and Marumoto. Rodriguez has maintained a business relationship with Caldera since leaving the White House.

<sup>85</sup> Exhibit No. 262-41, 13 *Hearings* 5652.

<sup>86</sup> Oaxaca was also associated with the Spanish-speaking Business Alliance of Los Angeles, which was the subject of a July 26, 1972, CRP memorandum from Armendariz to Bayer, on the subject of "OMBE Proposals" (exhibit No. 262-35, 13 *Hearings* 5633):

We have received the list of proposed grants to be funded, listed in your July 24 memo. Two of those listed that appear to be not funded at this point are highly recommended by this office: Spanish-Speaking Business Alliance, Los Angeles; Amex Civil Systems, Lawndale, Calif.

Armendariz testified he knew Oaxaca "to be a reputable person" but, when asked whether he knew Oaxaca was national treasurer of the National Hispanic Finance Committee, stated that he was "not sure" and that he "may not have known [it] at that time." (Armendariz executive session, p. 92.)

<sup>87</sup> Exhibit No. 262-28, 13 *Hearings* 5615.

ministration was administration policy. But there is evidence that attempts to excise unfriendly recipients of Federal funds actually were made. Moreover, both Marumoto and Rodriguez have admitted that they felt persons opposing the administration should not receive Government grants.

(1) *Development Associates (Leveo Sanchez)*

One of the most instructive cases involved Leveo Sanchez, the head of Development Associates, Inc., a Washington-based consulting firm. An "Administrative—Confidential" memorandum dated July 19, 1972, from Marumoto to Rob Davison of the White House staff notes that Sanchez' firm had been funded for \$1 to \$2 million "by our Administration." After referring to Sanchez' association with Sargent Shriver and Frank Mankiewicz, the memorandum records that Sanchez' company had recently received over \$900,000 in Government contracts and was under consideration at DOL and HUD for additional contracts totaling \$100,000. The memorandum continues:

This is a classic example of a firm, not necessarily on our team, which is making a comfortable living off of us. These are grants that we're aware of which indicates [sic] they may have a few others.

I would recommend if it's not too late, we stop the proposals at DOL and HUD.<sup>88</sup>

Copies of this memorandum went to Armendariz and Rodriguez.

Five days later, on July 24, 1972, Armendariz wrote a confidential memorandum to Davison with copies to Marumoto and Rodriguez, which stated:

We have inquired about Development Associates and have learned of their close ties with the DNC and Cesar Chavez. We fully concur with Bill Marumoto's memo of July 19.<sup>89</sup>

The background of these memorandums is informative. According to Sanchez, in the spring of 1972 he was solicited for a campaign contribution by Joseph Reyes, chairman of the Washington, Maryland, and Virginia Chapter of the National Hispanic Finance Committee. (As discussed above, Reyes was the beneficiary of certain grants and contracts as to which Marumoto intervened.) Reyes, Sanchez says, told him he was expected to make a \$1,000 contribution to the President's reelection effort. Sanchez declined.

On July 17, 1972, at the invitation of Marumoto, Sanchez attended a White House luncheon with Marumoto and David Wimer, now Deputy Special Assistant to the President and formerly the Special Assistant to the Assistant Secretary of Labor for Administration and Management. Sanchez related that during the lunch Marumoto told him that "they" had been very good to his firm and that he was about to be awarded a \$400,000 contract from the Department of Labor. Sanchez said Marumoto then stated that Sanchez and Development Associates would be expected to show their appreciation in a substantial manner in regard to the President's reelection effort. Sanchez stated he informed Marumoto and Wimer he knew he would

<sup>88</sup> Exhibit No. 262-36, 13 *Hearings* 5635.

<sup>89</sup> Exhibit No. 262-36, 13 *Hearings* 5635-36.

not receive a \$400,000 labor contract and that Development Associates had previously received contracts because of its proficiency. Sanchez said he rejected the request to support the reelection effort and that Marumoto and Wimer then "implied" possible adverse consequences.

When questioned concerning his meeting with Sanchez, Marumoto testified:

DASH. Can you, to the best of your recollection, tell the committee what it was that you discussed with Mr. Sanchez at that meeting?

MARUMOTO. If I recall, the other party that was involved in that meeting at the time was David Wimer, who was Under Secretary Silberman's aide in the Department of Labor, who had the responsibility on the other side—on the Department side—on this Responsiveness Program. He and I had lunch in the White House staff dining room and discussed generally a number of things pertaining to Mr. Sanchez' operation.

DASH. Who initiated the meeting?

MARUMOTO. I believe I did, sir.

DASH. \* \* \* I ask you very specifically whether or not you were making this recommendation as you show in your memorandum because you felt that this was a contractor "who was living off of us," and was not supporting the administration and you were recommending he be cut off for that reason. Your testimony, as I recall it, was that was the reason that you wrote the memorandum.

MARUMOTO. That is correct.<sup>91</sup>

Marumoto denied that there was any discussion during the luncheon concerning contributions and did not recall any exchange regarding the labor contract. He stated he was not aware of an effort to solicit contributions from Sanchez at any time. But his testimony continued:

DASH. That was shortly after—just 2 days after that meeting that you wrote this memorandum?

MARUMOTO. Right.

DASH. Is there any relationship between this memorandum written 2 days after that meeting and the meeting?

MARUMOTO. I am sure there must have been.

DASH. If you are sure there must have been, can you recall what that relationship may have been or must have been?

MARUMOTO. I guess it was our impression—not impression, but our decision, that it appeared, from sources outside of our meeting, that he was not going to support the administration so this was a recommendation that we made.<sup>92</sup>

David Wimer, in a staff interview, stated that no discussions of campaign contributions, reelection support, or Government grants or contracts took place during the luncheon. Wimer further declared that he was not expecting Sanchez' presence and does not know why he was there. According to Wimer, he has never acted to influence a decision on grants, contracts, or loans for Sanchez or his firm.

<sup>91</sup> 13 *Hearings* 5319.

<sup>92</sup> 13 *Hearings* 5320.

Sanchez, however, did experience adverse administration action. On September 25, 1972, Sanchez' company was "graduated" from the SBA 8(a) program.<sup>93</sup> This graduation, which the SBA was "pleased" to effect and for which Development Associates was "congratulated," actually meant that Development Associates could no longer qualify for preferred status under the provisions of section 8(a) and had to compete generally with other nondisadvantaged contractors. Not only does "graduation" from the 8(a) program adversely affect future grants, but a "graduated" company loses all previously awarded grants at the close of the fiscal year in which its eligibility ceases. In other words, "graduation" can have a devastating impact.

Marumoto acknowledged there was a "political input" on the Sanchez decision. He could not recall any other Spanish-speaking "graduates" from the 8(a) program.<sup>94</sup>

Subsequent to Development Associates' "graduation," efforts to reinstate the company in the 8(a) program were made by Dan Trevino, its vice president, who also served on the Texas Spanish-speaking Committee To Re-Elect the President. Trevino contacted Carlos Conde, a friend, to arrange for Trevino to meet with Henry Ramirez on this matter.

Trevino met with Ramirez in Washington shortly after the election. At this meeting, according to Trevino, Ramirez stated that Development Associates had been generally uncooperative in the reelection effort. Ramirez, Trevino said, gave as examples of an uncooperative attitude Sanchez' refusal to provide campaign printing at Development Associates' expense and his failure to make a campaign contribution. Ramirez told Trevino that Development Associates lost its 8(a) certification because of this attitude.<sup>95</sup> When Trevino pointed out that he had been active in the President's reelection effort, Ramirez suggested that Trevino would have no difficulty obtaining section 8(a) contracts if he divorced himself from Sanchez. Ramirez then suggested that Trevino see Rodriguez.

The meeting between Rodriguez and Trevino, as described by Trevino, was quite similar to his meeting with Ramirez. Sanchez was pictured as uncooperative during the campaign and close to Shriver and Mankiewicz. Rodriguez indicated that the decision to remove Development Associates from the 8(a) program was not directed against Trevino and that he would try to help Trevino in some manner.

Trevino then turned to Peter Mirilez, Director of the Migrant Division of OEO, with whom Development Associates had a contract to service migrant workers. Mirilez told Trevino that OEO was satisfied with Development Associates' work on this contract but that he was getting pressure from the White House to discontinue it. Following this conversation, Trevino returned to Texas to await word concerning the result of his efforts.

In January 1973, not having heard from Rodriguez, Trevino had Conde arrange another appointment with him, this one attended by Sanchez as well as Trevino. There, Rodriguez informed Trevino and Sanchez that an OEO migrant contract in which they were interested

<sup>93</sup> Exhibit No. 262-53, 13 *Hearings* 5685.

<sup>94</sup> 13 *Hearings* 5292.

<sup>95</sup> In a staff interview, Sanchez confirmed he had been asked to do some printing but stated that the request was in very general terms and that, as with the request for a contribution, he refused. Sanchez advised the Select Committee that Trevino contemporaneously related the above events to him.

was slated to go to Amex, a west coast firm, but that Rodriguez would try to assist in Development Associates' reinstatement as a SBA 8(a) contractor despite Sanchez' lack of cooperation.

The following month, the problem was still not resolved. According to Trevino, he again contacted Conde to arrange a meeting with Marumoto. At this meeting, Trevino said, he began to summarize the problems facing Development Associates, but Marumoto cut him short, indicating that he (Marumoto) was well aware of the situation. Trevino said Marumoto stated that recertification was being worked on and that Rodriguez would be in contact with Trevino. Sanchez, however, has advised the Select Committee staff that Development Associates was never reinstated in the 8(a) program.

Armendariz, testifying in executive session, denied any involvement in penalizing Sanchez. It will be recalled that Armendariz had written Davison that "we fully concur" with Marumoto's memorandum to Davison of July 19 which recommended that Sanchez' proposals at DOL and HUD be stopped. When questioned concerning his memorandum, Armendariz stated that when he said "we fully concur" with Marumoto's memorandum, he meant he concurred only with the description of Sanchez as having close ties with Democratic leaders and the Democratic party. Armendariz, who received all of Marumoto's White House memoranda, testified that taking action against companies unfriendly to the administration "is just completely contrary to my ethics in politics."<sup>96</sup>

## (2) *Activities Respecting Other Nonsupportive Companies*

Another instance where a nonsupportive group received White House attention is illustrated by a May 26, 1972, "Administrative-Confidential" White House memorandum from Marumoto to Colson and Malek.

Expressed concern to OEO re a \$3 million grant to the Mexican American Unity Council only to find there are some legal hang-ups to try to cut them off. They promised to at least monitor the group.<sup>97</sup>

Marumoto testified in public session as follows:

DASH. What was the opposition to the Mexican-American Unity Council?

MARUMOTO. I think this was a situation where they had received a grant from OEO and before someone realized that they had a group that weren't necessarily supportive of the administration and there was some inquiry of trying to unfund them. Upon checking with their general counsel we found that it could not be done.

DASH. Was there any question as to their qualification?

MARUMOTO. I don't recall, sir.

DASH. So the effort to unfund them, really, was based on your learning that they were nonsupportive?

MARUMOTO. Yes, sir.<sup>98</sup>

Still another example of the administration's attitude toward unfriendly companies is found in a "Confidential" White House memo-

<sup>96</sup> Armendariz executive session, p. 95.

<sup>97</sup> Exhibit No. 262-19, 13 *Hearings* 5584.

<sup>98</sup> 13 *Hearings* 5285.

randum dated March 2, 1972, from Marumoto to James Lynn, then Under Secretary of Commerce, now Secretary of HUD:

In line with our recent discussion regarding NEDA [National Economic Development Agency] and our comments of "the tail wagging the dog," I am attaching an editorial written by a NEDA employee opposing the appointment of Cip Guerra as Deputy Director of OMBE.

This is the latest example of the unwillingness to cooperate in a "spirit of cooperation" with the Administration. I think before Commerce signs off on their \$2 million grant, you should sit down with Frank Viega and explain the facts of life.

I would appreciate being kept abreast of this highly important matter.<sup>99</sup>

NEDA was founded by Benjamin Fernandez around 1969 with the purpose of assisting Spanish-speaking businessmen. Frank Viega (former President of NEDA) in a staff interview stated that he did, in fact, meet with James Lynn in 1972 and that Lynn informed him that the White House would like NEDA to help the President. Lynn allegedly indicated that the White House "knew who their friends were." Also present at this meeting was Alfred R. Villalobos, former NEDA Executive Vice President and Chief Executive Officer,<sup>1</sup> who, in a staff interview, indicated that Lynn had stressed cooperation with the administration. Villalobos further stated that, from late 1971 until October 1972, he received numerous requests from Marumoto and Armendariz to perform services in relation to the reelection effort. According to Villalobos, considerable pressure was applied concerning the continuation of NEDA's Federal grants and contracts. In fact, Villalobos said, he resigned his NEDA post in October 1972 so that NEDA would not have difficulty renewing its Commerce Department grant.<sup>2</sup>

#### *c. "Neutralization" of Potential Opponents*

There is evidence that the Spanish-speaking re-election "team" acted to convince potential opponents of the President's re-election effort that they were in line for substantial Government funding, when, in fact, there was no intention to make such an award. The subject of one such effort was the Southwest Council of LaRaza, a Spanish-speaking group based in Tucson, Ariz. A June 9, 1972, "Administrative-Confidential" White House memorandum from Marumoto to Colson and Malek states:

Rodriguez working to obtain \$30,000 for the Southwest Council of LaRaza for a conference next month. This is the group we want to neutralize.<sup>3</sup>

Apparently, this \$30,000 grant was made as a showing of good faith by the administration. On June 23, 1972, a White House memorandum

<sup>99</sup> Exhibit No. 262-5, 13 *Hearings* 5535.

<sup>1</sup> According to Fernandez, who was chairman of the National Hispanic Finance Committee during the 1972 campaign, he was removed as president by Villalobos in a "coup d'etat." Fernandez has denied any knowledge of the facts set forth in the March 2 memorandum. (13 *Hearings* 5400-01.)

<sup>2</sup> Villalobos became a consultant to NEDA after leaving its employ. According to his successor, Arthur Negrete, Marumoto at a later date called him and said the White House wanted Villalobos fired. In fact, there was a defect in the procedure by which Villalobos was appointed and his consulting contract was terminated.

<sup>3</sup> Exhibit No. 262-24, 13 *Hearings* 5601.

notes that the \$30,000 grant had been obtained from DOL and that Rodriguez was still working with the Southwest Council of LaRaza.<sup>4</sup>

On June 29, 1972, David L. Wimer, Special Assistant to the Assistant Secretary of Labor for Administration and Management, wrote Richard Wise an assistant to the Under Secretary of Labor:

In seeking to create in key States an appropriate atmosphere for the re-election of the President, OASA has taken initial steps as follows:

1. *Obtainment of \$30,000 grant from Manpower Administration to support National Conference of Southwest Council of LaRaza.* This is a beginning effort to de-politicize this grass roots group representing a minimum of seven States. Conference to be held in Washington, D.C., last part of July.<sup>5</sup>

On the face of things, more substantial Government grants were in store for the Southwest Council of LaRaza. On August 18, 1972, Marumoto noted in a report to Colson and Malek that he and Rob Davison were working to obtain funding of a \$6 million HUD proposal submitted by the Southwest Council.<sup>6</sup> In addition, the Southwest Council was being considered for OMBE grant.<sup>7</sup> The council did, in fact, appear well qualified. On August 8, 1972, Nathan Bayer wrote Marumoto and Armendariz:

I spoke with John Jenkins this afternoon concerning the current status of your priority OMBE proposals.

In the case of the Southwest Council of LaRaza, John met with them this morning and spoke with them for about two hours. John is very impressed with this group and says that he would have no difficulty in funding them. He awaits your signal on this matter.<sup>7a</sup>

The signal never came. In fact, the evidence suggests that there was no intention to grant the Southwest Council of LaRaza \$6 million or anywhere near that sum. Rather, it appears that the Spanish-speaking "team" intended to neutralize this potentially hostile group by holding out the promise of substantial Federal funding. The following is from Marumoto's public testimony:

DASH. Now, were you aware of an organization called the Southwest Council of LaRaza?

MARUMOTO. Yes, sir.

DASH. Did you engage in any discussions with them concerning any grants?

MARUMOTO. Yes.

DASH. Could you tell us what discussions you had with them?

MARUMOTO. The Southwest Council of LaRaza is an active Democratic group that I believe was founded in Arizona and now is expanded into the Southwest States.

DASH. Were they supportive of the administration?

MARUMOTO. Well, in some discussion that some of our people had from the campaign staff as well as our staff, there was

<sup>4</sup> Exhibit No. 262-28, 13 *Hearings* 5614.

<sup>5</sup> Exhibit No. 14, 19 *Hearings* 8797.

<sup>6</sup> Exhibit No. 262-45, 13 *Hearings* 5668.

<sup>7</sup> Exhibit No. 262-41, 13 *Hearings* 5652.

<sup>7a</sup> Exhibit No. 262-41, 13 *Hearings* 5652.



some discussion about them supporting the President. They, in turn, said they would, provided they could get some Federal contracts.

DASH. Did you discuss any particular Federal contracts with them?

MARUMOTO. I believe there were some discussions—I had only one meeting with them, if you recall, and the others picked up on it. I think what finally happened was that the Committee To Re-Elect, the Spanish-speaking division, recommended a strategy for working with them that they be funded for \$30,000 for a national conference they wanted to hold.

DASH. What were they actually looking for—what kind of grant?

MARUMOTO. I believe they were looking for either two or three grants at maybe two or three different departments or agencies.

DASH. That amounted to approximately how much?

MARUMOTO. I am sure of six figures, I do not know.

DASH. Sums about \$400,000? [sic]

MARUMOTO. It could be more; I do not know the exact figure.

DASH. What was being offered to them at that time or suggested was \$30,000 for a conference?

MARUMOTO. Right, with consideration for assistance in a few months.

DASH. Mr. Marumoto, do you recall discussions we had yesterday, concerning this particular organization and your statement to us, that at no time did you believe they were going to get any grant, but that you were in a sense engaging with them in what has been known as a stroking session?

MARUMOTO. We were neutralizing them.

DASH. You were neutralizing them?

MARUMOTO. Yes, sir.

DASH. And by holding them at bay, not giving them a grant, but discussing the possibility of a \$30,000 conference grant, this sort of at least held them away from being an opponent if they were not going to be supportive?

MARUMOTO. That is right.<sup>8</sup>

*d. Malek's Comments on Grant Making Activity as to Spanish-Speaking Constituents*

Malek, when questioned concerning the grant and contract activities just described, testified that, "I do not believe I knew they (Marumoto and Armendariz) were participating in the review of minority business enterprise grants."<sup>9</sup> When confronted with copies of the numerous documents sent to him describing such activity. Malek stated that he is not certain he read the memorandums. He added that he was occupied on many matters and that reading an activity report, which did not require action on his part, had low priority. He said that, if he had read the passages in question, he would have interpreted

<sup>8</sup> 13 Hearings 5320-21.

<sup>9</sup> 18 Hearings 8246.

them: as evidencing cooperation with Spanish-speaking groups "to help them develop the skills with which to apply for grants \* \* \* on a substantive basis."<sup>10</sup> Malek also stated that, in his opinion, it was improper for campaign officials to have "sign-off" powers respecting Government grants and contracts.<sup>11</sup> He said it was inappropriate to deny funding to responsible organizations simply because they were not supportive of the administration.<sup>12</sup>

### 3. CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE AND THE MEDIA EFFORT

#### *a. The Cabinet Committee*

The Cabinet committee, during 1972, was composed of 11 members chosen from the President's Cabinet and high-level non-Cabinet posts. It had a staff of 35, mostly of Spanish-American descent. As described in a fact sheet, apparently prepared by that committee:<sup>13</sup>

The Cabinet Committee on Opportunities for Spanish Speaking People is primarily a vehicle for carrying out the President's program for Spanish-Speaking Americans. Signed into law on December 30, 1969, by President Nixon, the Committee is to assure that Federal programs are reaching all Spanish-speaking people, provide technical assistance, and identify new programs which will benefit Spanish-speaking communities. An independent office in the Executive Branch of the Government, the Cabinet Committee is responsible to Congress through the President.

While there was some ambiguity in 1972 whether the chairman of the committee—Henry Ramirez during the 1972 campaign—was subject to the provisions of the Hatch Act,<sup>14</sup> the balance of the staff clearly was. Nonetheless, there is evidence that the Cabinet committee's staff became directly involved in the 1972 campaign. For example, a document prepared by Armendariz contains the following statement:

The Cabinet Committee on Opportunities for Spanish Speaking People will provide research and staff support to the White House Task Force for all phases of the campaign effort. In addition, its chairman, Henry Ramirez, should be a powerful recruiter of Spanish-Speaking support.<sup>15</sup>

Whether this document, addressed to Robert Marik who was in charge of planning and research at CRP, reached higher officials in the campaign or Government is not known. However, an unsigned "Confidential" memorandum entitled "Interest Group Reports" on CRP stationery dated December 16, 1971, and addressed to Attorney General Mitchell,<sup>16</sup> stated:

The [Spanish-speaking] report makes detailed recommendations for highly visual social and economic development

<sup>10</sup> 18 *Hearings* 8248-49.

<sup>11</sup> 18 *Hearings* 8249.

<sup>12</sup> 18 *Hearings* 8252.

<sup>13</sup> The factsheet was found in CRP files. It is included in exhibit No. 9, 19 *Hearings* 8683.  
<sup>14</sup> The factsheet just referenced declares that the chairman was exempt from the provisions of the Hatch Act. A congressional committee with oversight responsibility in regard to the Cabinet committee has recently concluded otherwise. See report, Committee on Government Operations, House of Representatives, Sept. 25, 1973.

<sup>15</sup> Armendariz executive session, exhibit No. 2, p. 24.

<sup>16</sup> Attorney General Mitchell was, at that time, a member of the Cabinet committee.

projects and for publicizing the same. It suggests heavy exploitation of the Cabinet Committee on Opportunity for Spanish-speaking peoples which is now closely allied with Colson's shop and Bill Marumoto on political and public relations questions.<sup>17</sup>

On January 4, 1972, Jeb Magruder sent a memorandum to Attorney General Mitchell that declared:

Central to all our efforts [in the Spanish-speaking area] should be full politicization of the Cabinet Committee, now on an \$800,000 budget and going up to \$1.3 million in July. The group now works through Finch, but Colson has begun assisting on the political and P.R. side. Carlos Conde, a Spanish press type, has been put on the Committee's payroll and will be working out of the White House in cultivating Spanish media, much as Stan Scott does for black media.<sup>18</sup>

Further activity by Conde is described in an "Administrative—Confidential" Marumoto memorandum to Colson and Malek dated July 28, 1972, that states:

Conde completed the updating and checking for accuracy on the Administration Achievement list. The pertinent departments reviewed it, updated it and signed off on their section as being factually accurate. Sent copy to Marumoto for rapid approval by Domestic Council and then to Armendariz for insertion in Speaker's kit.<sup>19</sup>

#### *b. The Media Plan*

There is evidence that the Cabinet Committee's media resources were used extensively for campaign purposes and that the committee media operation was reorganized with the specific purpose of improving its performance in this regard. This activity is described in a memorandum from Carlos Conde to seven White House and campaign officials, including Colson, Malek, Ramirez, and Armendariz, dated May 31, 1972, and entitled, "Spanish Speaking Task Force Media Team":

The campaign to re-elect the President is to present his record and his Administration as second to none. The best way to do this is through an effective communications plan that highlights his record in all of the public sectors. The development of the best possible bi-lingual communications network is essential to the success of the overall plan.

The Spanish speaking media plan developed by this office is now underway, but it has become increasingly apparent in the past several weeks, however, that the Spanish speaking division of the Committee to Re-Elect the President will require more support than the plan originally envisioned.

\* \* \* This situation has forced Armendariz to depend frequently on this office and on the Cabinet Committee for

<sup>17</sup> Exhibit No. 262-3, 13 *Hearings* 5534.

<sup>18</sup> Exhibit No. 15, 19 *Hearings* 8813. Carlos Conde was employed by the Cabinet Committee from February 20, 1972, to April 29, 1973, and was on detail to the White House Communications Office under Herbert Klein. It appears that the White House paid Conde's salary from July 1, 1972, until he left his position.

<sup>19</sup> Exhibit No. 262-38, 13 *Hearings* 5646.

staff support \* \* \* [T]he Cabinet Committee's public information office, though integrated to the Spanish speaking campaign plan, has not fulfilled its function well because its staff requires broader journeyman experience.<sup>20</sup>

The memorandum presented two alternatives, the second of which—the one favored—was to revamp the existing media structures within the Cabinet Committee and other groups to support the campaign. Apparently the reorganization was already well underway. A memorandum from Marumoto to Colson and Malek dated April 28, 1972, stated:

For the past two weeks Conde has been spending considerable time with the Cabinet Committee's public information section putting a reorganization plan into effect and helping implement some projects that came from the reorganization.<sup>21</sup>

On June 2, 1972, Marumoto wrote Colson and Malek that Conde was meeting with Ramirez and another official of the Cabinet Committee concerning "a revamping in personnel in order to give better support to Alex at 1701."<sup>22</sup>

Part of the effort to gain additional help for the campaign effort involved the use of Diana Lozano, a Cabinet Committee employee until July 12, 1972. In April and May of 1972, Lozano worked on a number of re-election media projects.<sup>23</sup> The May 31 Conde memorandum notes:

Assisting part time is researcher-writer Diana Lozano of the Cabinet Committee, who also does special assignments for Chairman Henry Ramirez and Alex Armendariz.<sup>24</sup>

The memorandum also argues the need for a researcher-writer on Spanish-speaking topics and states that Lozano was willing to take leave of absence from the Cabinet Committee to join CRP. On his copy of the memorandum, Malek wrote: "Let her work from where she is—no way she can be added."<sup>25</sup> Moreover, in a memorandum to Conde dated June 5, 1972, Malek stated:

If, however, Alex can still demonstrate the need for Miss Lozano's help, we can arrange for her to remain at the Cabinet Committee but spend part of her time supporting our activities.<sup>26</sup>

But 2 days later steps were taken to put Lozano on the staff of the Committee To Re-Elect the President where she officially started working on July 12, 1972. When questioned concerning the use of Lozano in the campaign before she joined CRP, Malek, in executive session, stated he did not know she was covered by the Hatch Act.<sup>27</sup>

Armendariz testified in executive session that he never requested "support" from the Cabinet Committee. When shown documentary evidence<sup>28</sup> that he had asked the Cabinet Committee to send him daily

<sup>20</sup> Exhibit No. 262-22, 13 *Hearings* 5595.

<sup>21</sup> Exhibit No. 262-14, 13 *Hearings* 5569.

<sup>22</sup> Exhibit No. 262-21, 13 *Hearings* 5591.

<sup>23</sup> Exhibit No. 262-14, 13 *Hearings* 5569; Exhibit No. 262-19, 13 *Hearings* 5587.

<sup>24</sup> *Id.* at 5596.

<sup>25</sup> *Id.* at 5596.

<sup>26</sup> *Id.* at 5593.

<sup>27</sup> 18 *Hearings* 8256.

<sup>28</sup> Exhibit No. 16, 19 *Hearings* 8819.

news clippings and to translate certain campaign material, he stated that these matters were nothing more than requests for "information" from the Cabinet Committee.<sup>29</sup>

### *c. Hoy*

The Cabinet Committee published a minority-oriented newspaper called *Hoy*, which apparently was used in the reelection effort.<sup>30</sup> There are a number of memorandums from Armendariz or Malek to Ramirez suggesting how *Hoy* could further campaign goals. An example is a memorandum from Armendariz to Ramirez dated May 11, 1972, which reads:

Your committee's image should be positive and show power—not civil rights. The picture on the first page is bad news; all three individuals, non-Spanish-speaking, are minority advocates—not a positive Spanish-speaking picture in my opinion. Don't build others, just the President—*His record* with the Spanish-speaking. [Emphasis in original.]<sup>31</sup>

Another apparent attempt to use "*Hoy*" for political purposes concerned Mayor John V. Lindsay of New York, who, in 1971, switched to the Democratic Party and then unsuccessfully ran for President. Attaching a May 14, 1972, newspaper article describing Lindsay's cut of funds from a bilingual education program, Armendariz, on June 7, 1972, wrote Ramirez, "How about taking a slap at Lindsay?"<sup>32</sup> In response to a staff inquiry concerning this request, Ramirez stated that he complied with Armendariz' requests when he wanted to comply. He said he may have issued a release on his own initiative criticizing Lindsay as he similarly issued releases criticizing other officials and agencies.

## 4. OTHER EFFORTS BY THE SPANISH-SPEAKING TASK FORCE TO PROMOTE THE PRESIDENT'S REELECTION

### *a. La Raza Unida Matter*

A significant matter uncovered by the Select Committee was an apparent effort to pay *La Raza Unida*, a Texas-based Mexican-American political party, to take a neutral stand in the 1972 Presidential campaign rather than endorse the candidacy of Senator McGovern, as was anticipated. The first surfacing of this scheme appears in a pair of memorandums on CRP stationery addressed to Attorney General John N. Mitchell, one dated December 16, 1971, designated "Confidential" and entitled "Interest Group Reports,"<sup>33</sup> and a similar memorandum dated January 4, 1972, from Magruder to Mitchell.<sup>34</sup> These documents concerned various interest-group reports compiled by Bart Porter and the staff of Charles Colson. The December 4 document notes that the

<sup>29</sup> Armendariz executive session, pp. 120–6.

<sup>30</sup> Armendariz' Spanish-speaking campaign plan (exhibit No. 13, 19 *Hearings* 8754, 8796) indicates that the "CCSS newsletter" would be used in the campaign to publicize the President's record and concern for the Spanish-speaking. Ramirez, however, stated that the editor of *Hoy* worked on the McGovern campaign.

<sup>31</sup> This memorandum concerned the third issue of *Hoy*.

<sup>32</sup> Exhibit No. 17–A, 19 *Hearings* 8835–36.

<sup>33</sup> Exhibit No. 262–3, 13 *Hearings* 5533.

<sup>34</sup> Exhibit No. 15, 19 *Hearings* 8813.

Porter/Colson Spanish-speaking report "advocates consideration of undercover funding of La Raza Unida, a splinter party, in exchange for an agreement that La Raza Unida runs Presidential candidates in California and Texas." And the January 4 document states:

Perhaps the most interesting suggestion the report makes is that consideration be given to under-cover funding of La Raza Unida, a left-wing Chicano political party in the Southwest, in exchange for agreement that La Raza Unida run 1972 presidential candidates in California and Texas. La Raza Unida has done very well in several state and local elections in California, New Mexico, and Texas.

Subsequent memorandums reflect serious consideration of activity of this type. On June 26, 1972, Armendariz wrote:

Met with Jose Angel Gutierrez, La Raza Unida leader from Texas, for a "get acquainted" session; discussed La Raza Unida's plans and the effect La Raza Unida Party is having on the President's campaign. Will continue negotiations with Gutierrez.<sup>35</sup>

A September 8, 1972, CRP memorandum from Armendariz to Malek, the subject of which is "The Raza Unida Party National Convention," states:

The issue of an \$8,000 contribution for Muniz' campaign from the Republican party was brought up in a meeting off the convention floor. A promise was made to publicly condemn McGovern if such a donation were made.<sup>36</sup>

Malek responded to this suggestion by writing on the top margin of the September 8 memorandum:

Do you think we should do this? I am doubtful—how could GOP contribute to a rival candidate? In addition, it seems too cheap—Raza Unida's principles should be worth more than that—Fred.<sup>37</sup>

However, the matter apparently did not die there. Less than 1 week later, on September 14, 1972, Armendariz sent a "Confidential" memorandum to Colson (copy to Marumoto) which relates:

In a private meeting several weeks ago, Gutierrez approached this office for a quiet Republican contribution to La Raza Unida. A promise was made to publicly condemn McGovern if such a donation were made. This possibility is still under consideration on the grounds that an effort to maintain the neutrality of La Raza Unida is to our advantage.

The contribution would be used for the campaign of Ramsey Muniz, Raza Unida Candidate for Governor of Texas, who won a strong endorsement from the convention. The highest ranking Raza Unida Candidate, Muniz is an attorney and distinguished high school and college football player. He has a clean image, a professional appeal with no record of

<sup>35</sup> Malek was the recipient of this communication.

<sup>36</sup> Exhibit No. 262-50, 13 *Hearings* 5677.

<sup>37</sup> *Ibid.*

militancy, and apparently has the enthusiastic support of the party.

The dangers of such a move arouse question as to whether the end will justify the means. Such a contribution would be certain to annoy Texas Republicans as well as Connally Democrats supporting the President. Furthermore, Raza Unida may have no alternate recourse anyway, which would give us no reason for sticking our necks out. In any event, it is obvious that any contribution should not come from the Committee for the Re-Election of the President, but from an independent third source.<sup>38</sup>

On October 30, 1972, in regard to his dealings with La Raza Unida, Armendariz wrote Marumoto, "Please be assured that so far everything went as expected."<sup>39</sup> Armendariz noted that La Raza considered both parties "untrustworthy." He commented that their aim was not an endorsement of the President by La Raza which was "unrealistic, unnecessary, and unwise to expect"—but "to disassociate it from the Democratic Party for which its members have voted unanimously for decades \* \* \*. The purpose of disassociation is to elicit criticism of McGovern." A copy of this memorandum went to Malek.

Meanwhile, the Spanish-speaking team was apparently attempting to secure the neutrality of La Raza Unida by utilizing the grant process. Involved was a \$391,206 OEO grant to the Zavala County Health Association which Texas Gov. Preston Smith had vetoed on July 27, 1972. An October 9, 1972, CRP memorandum from Armendariz to Malek<sup>40</sup> states that "it is important for political reasons" that the administration override the veto. As Armendariz explained:

Should the poll gap tighten in Texas, the neutrality of La Raza Unida will be important. Our studies indicate that there is 70 percent approval of Raza Unida among Mexican Americans in Texas. The fact that there are about 1 million political Mexican American voters in Texas and that Humphrey won that state in 1968 by only 38,000 votes, substantiate the possible importance of La Raza Unida neutrality in this election.

We have no way of publicly supporting this group without antagonizing Republicans and making La Raza Unida look as though they had sold out. At the same time, neither do we want to antagonize Raza Unida supporters and drive them back to their old position as Democrat voters. The Zavala County grant provides us with an opportunity to support the party indirectly in a positive and legitimate manner. Such an action is likely to strengthen their position of neutrality which is so politically beneficial to us.

On November 2, 1972, Armendariz wrote a confidential memorandum to White House aide Kenneth Cole, again stressing the importance of keeping La Raza Unida neutral through election day and explaining that La Raza Unida would become "more conciliatory" if certain specified programs—in addition to the Zavala County grant—"could be sprung loose within the next few days."<sup>41</sup>

<sup>38</sup> Exhibit No. 262-51, 13 *Hearings* 5679-80.

<sup>39</sup> Exhibit No. 262-50, 13 *Hearings* 5678.

<sup>40</sup> Malek exhibit No. 22, 18 *Hearings* 8405.

<sup>41</sup> Exhibit No. 262-62, 13 *Hearings* 5697.

In his November 14, 1972, campaign report,<sup>42</sup> Armendariz, indicating satisfaction with the role played by La Raza Unida, stated:

As the Raza Unida convention endorsed no candidate for President, it was clearly to the advantage of the GOP to attempt to maintain the neutrality of this group. A Zavala County health grant became a controversial issue despite the fact that this Administration overrode the veto of Governor Smith. To placate irate Raza Unida leaders, overtures were made to assist them by expressing interest in grants of interest to them.

When questioned in executive session concerning his role in this episode, Armendariz claimed that at no time did he approve payment of \$8,000 to La Raza Unida in exchange for their neutrality and that his memorandums should not be construed in this manner. He portrayed his role as only a conduit for information. Armendariz said he had no knowledge that any campaign contribution to La Raza Unida was actually made.<sup>43</sup>

#### *b. Reies Lopez Tijerina Matter*

On August 29, 1972, Henry Ramirez sent a memorandum to Armendariz on Cabinet committee stationery attaching a letter to Ramirez from Reies Lopez Tijerina, who was then on parole following his conviction for assaulting Government officials during a demonstration in New Mexico. Ramirez' memorandum states:

Please see attached letter with specific reference to the third paragraph. Mr. Tijerina indicated that he would work for us in return for due considerations.

I await your recommendations, if you want me to move on this matter.<sup>44</sup>

The Tijerina letter (dated August 14, 1972) reads in part:

I'm very glad that I got to know you. I also want it very clear that I am very thankful for what you mentioned to me in your office concerning my probation, parole, and the possibility of a full Executive pardon. As I said it before while I was in your office, I want to repeat in writing most of the Spanish-speaking people in the United States would feel grateful if an Executive pardon would be granted.

In the meantime I want to offer my service or contribution, without reservation, to your service, all the Spanish-speaking people and to harmony between our people and all others in the United States. Please do not hesitate to call me anytime for any service.<sup>45</sup>

On the bottom of Ramirez' memorandum, Armendariz made the following handwritten notation: "HR talk to Lujan call 9-6-72." Armendariz testified that he took no action concerning the proposal but told Ramirez to call Congressman Manuel Lujan, Jr., concerning the problem.<sup>46</sup> Ramirez stated in a staff interview that he believed

<sup>42</sup> Exhibit No. 13, 19 *Hearings* 8774.

<sup>43</sup> Armendariz executive session, pp. 108-9, 115.

<sup>44</sup> Armendariz executive session, exhibit No. 24, p. 137.

<sup>45</sup> Armendariz executive session, exhibit No. 24, p. 137.

<sup>46</sup> Armendariz executive session, p. 140.



the Tijerina case should have been reviewed and that he sent the memorandum to Armendariz because he was a good "contact man" who could bring the problem to the attention of the right people. Ramirez claims his help was not conditioned upon campaign support.

Armendariz and Ramirez stated that the Tijerina matter was not pursued further. Congressman Lujan, when contacted by the committee, said he could not recall discussing Tijerina with Armendariz or Ramirez.

*c. Alfred Hernandez Matter*

Alfred Hernandez was head of the Spanish-speaking Democrats for Nixon effort. Evidence developed by the Select Committee suggests that, while negotiations were underway to gain his support for the reelection effort, there were also discussions with him as to his interest in a Federal position, particularly a Federal judgeship. While all participants deny a *quid pro quo* arrangement, various memorandums and documents reflect the relationship between support and appointment.

A May 26, 1972, "Administrative-Confidential" White House memorandum from Marumoto to Colson and Malek reads:<sup>47</sup>

Conde traveled to Houston with Armendariz to meet with an influential Mexican American democrat who is thinking of supporting the President in November. Alex is to continue the discussions with him and work out the scenario if he comes aboard.<sup>48</sup>

On June 8, 1972, Armendariz wrote a memorandum (recipient not indicated) regarding Hernandez. After describing Hernandez' Democratic credentials, the memorandum continues:

Impressed with the President's record in assisting Spanish-speaking and disenchanted with a lack of recognition from Democrats, Mr. Hernandez is considering taking action in public support of the President \* \* \* Mr. Hernandez has hopes that this move will bring him better recognition than he has received from Democrats.<sup>49</sup>

The following day, June 9, Armendariz, Conde, and Marumoto met with Hernandez regarding his potential support of the President. Then, on June 12, Marumoto wrote Hernandez a letter:

It was good to have seen you again and particularly to hear of your interest in supporting the re-election of the President.

I want to emphasize that if you implement your plans as we discussed, the President will adequately recognize you.<sup>50</sup>

Finally, a memorandum dated August 18, 1972, from Marumoto to John Clarke reads:

If any vacancies come up for the federal bench in Texas, 1701 and our operation would like to see Judge Hernandez appointed.

He is a Democrat who is presently heading the Spanish speaking Democrats for the President and is a three-time

<sup>47</sup> Exhibit No. 262-19, 13 *Hearings* 5583-87.

<sup>48</sup> Exhibit No. 262-19, 13 *Hearings* 5586.

<sup>49</sup> Exhibit No. 262-44, 13 *Hearings* 5665.

<sup>50</sup> Exhibit No. 262-44, 13 *Hearings* 5664.

past national president of LULAC, the largest Chicano service organization in the country.

It would be a real coup if we could appoint him.<sup>51</sup>

The propriety of the handling of the Hernandez matter was pursued by Senator Talmadge in his questioning of Marumoto:

TALMADGE. Were you not aware of the provision of title 18, section 600, of the United States Code that makes it a crime to promise Federal employment or other benefits under consideration for political support for a candidate or political party?

MARUMOTO. Yes, sir.

TALMADGE. Isn't that the indication of these documents that I have just shown you?

MARUMOTO. One moment, sir.

I would like to reemphasize that there was no promise or no offer whatsoever to Judge Hernandez about a Federal judgeship.

TALMADGE. The letters speak for themselves. But I understood that you made a specific pledge that he would be appropriately recognized.

MARUMOTO. That is right.

TALMADGE. And shortly thereafter, you recommended him for a Federal judgeship.<sup>52</sup>

In fact, Hernandez was not offered a Federal judgeship after the election. He was, however, offered a commissionership on the Consumer Safety Products Commission, which he declined.

#### *d. Ed Pena Matter*

The evidence before the committee indicates that certain administration and campaign officials sought to discharge Ed Pena, Director of Compliance, Equal Employment Opportunity Commission, for favoring Democratic candidates. On May 19, 1972, Marumoto wrote an "Administrative—Confidential" memorandum to Colson and Malek,<sup>53</sup> which reads:

Working with Kingsley, Ramirez and Rodriguez re the dismissal of Ed Pena, Director of Compliance at EEOC.<sup>54</sup>

Two weeks later, on June 2, 1972, in a similar memorandum, Marumoto wrote:

Continuing to work on the following vacancies:

Developing a case re Ed Pena, Director of Compliance at EEOC (GS-17) who has been violating the Hatch Act.<sup>55</sup>

Then, on August 25, 1972, Pena became the subject of an entire "Confidential" memorandum from CRP staffer David E. Florence to Armendariz, which dealt with Pena's activities at a convention of the supposedly nonpartisan LULAC Supreme Council.<sup>56</sup> Pena was

<sup>51</sup> Exhibit No. 262-44, 13 *Hearings* 5663.

<sup>52</sup> 13 *Hearings* 5318.

<sup>53</sup> Exhibit No. 262-17, 13 *Hearings* 5579-82.

<sup>54</sup> LULAC stands for League of United Latin American Citizens. Pena is the individual who recommended that EEOC investigate the University of Texas, an action described as potentially "disastrous" in a White House memorandum. See section V.C.1, *infra*.

<sup>55</sup> Exhibit No. 262-21, 13 *Hearings* 5588.

<sup>56</sup> Marumoto described LULAC as "the largest Mexican-American Association, called the Elite of the United Mexican-American Citizens." (13 *Hearings* 5293).

accused therein of "attempting to undermine our efforts." The memorandum continued:

Later, Pete Villa commented, to me, that Ed Pena thought LULAC was getting too Republican and that he, Ed, wanted LULAC to invite Shriver to the October Supreme Council meeting in Washington.

It is my belief that one of the reasons Pete Villa, and Roberto Ornelas follow Ed Pena around and speak up for him is so that they will be in "thick" with the McGovern administration if McGovern is elected President.

It is my belief that it would be wise to terminate Ed Pena from his position as a GS-18 at EEOC.<sup>57</sup>

When questioned at public hearings concerning Pena, Marumoto testified as follows:

MONTROYA. Tell me about Ed Pena, why were some people anxious to get him fired?

MARUMOTO. He was just vocally expressing antiadministration sentiments.

MONTROYA. Did the White House have a policy of doing that to every employee in the Government who was against the President?

MARUMOTO. No, sir.

MONTROYA. Why did you pick on Mr. Pena?

MARUMOTO. I guess he was the most visible.

\* \* \* \* \*

MONTROYA. Was there anything different from what Mr. Pena was doing than from what various persons were doing who were working in similar positions who may have been Republicans?

MARUMOTO. I don't think so.<sup>58</sup>

Mr. Pena, in fact, retained his position.

#### *e. Request for a Demonstration*

The evidence presented to the committee indicates that, in one instance, Marumoto asked an official of a Federal grantee—NEDA—to supply people to stage a demonstration in support of the mining of Haiphong Harbor in front of the offices of the Los Angeles Times. Marumoto testified as follows:

DASH. Who was Mr. Alfred Villalobos?

MARUMOTO. He was at that time the executive vice president of that organization [NEDA].

DASH. Did you ever ask him to stage a phony demonstration in front of the Los Angeles Times office?

MARUMOTO. Yes, sir. I don't know if I agree with the term "phony."

DASH. What term would you use?

MARUMOTO. I was asked, on that particular occasion by Mr. Colson, when the Los Angeles Times came out with an anti-administration editorial, I believe—I can't recall the par-

<sup>57</sup> Exhibit No. 262-47, 13 Hearings 5669.

<sup>58</sup> 13 Hearings 5294, 5303-5304.

ticular subject, but we had asked if Mr. Villalobos would organize a group to demonstrate in front of the Los Angeles Times.

DASH. Did you receive cooperation in that request?

MARUMOTO. I think after a couple of days, he called back and said he just could not do it.<sup>59</sup>

In a staff interview, Villalobos indicated he did not think Marumoto's request proper and therefore decided not to honor it.

#### *f. Holding Back Census Data*

In one instance, the campaign team unsuccessfully attempted to delay the release of information by the Census Bureau which was considered detrimental to the reelection effort. An "Administrative-Confidential" White House memorandum from Marumoto to Colson and Malek, dated July 7, 1972, relates:

Conde discussed with Census Bureau the upcoming social and economic report on the SS. The report will show that the SS are doing better by comparison than the Blacks and the question is whether the report should show the comparison. It will have a SS-Anglo comparison which [of] course will show the Whites in a dominant position. The representative also talked to Des Barker on this. Conde discussed this with Alex Armendariz of 1701 and the inclination is not to show SS-Black comparisons. Report is due out July 20 and Conde will look over the figures with the Census representative and determine if other than Census media dissemination is warranted.<sup>60</sup>

A July 12, 1972 CRP document from Armendariz to Marumoto entitled, "Selected Characteristics of Persons and Families of Mexican, Puerto Rican, and other Spanish Origin: March, 1972" reads:

We have reviewed Mr. Joseph R. Wright, Jr.'s memo to Mr. Desmond Barker on the subject matter and offer our views on the subject, hoping some action can be taken to stop publication for the reasons mentioned below.

*... Our position is that any statistical data which show the Spanish-Speaking community lagging behind other elements of the population will be construed as the fault of the incumbent government.*<sup>61</sup> [Emphasis in original.]

Two days later, Marumoto, in a July 14, 1972, White House "Administrative-Confidential" memorandum, wrote Colson and Malek that:

Armendariz and I reviewed Census material on the SS that is to be released soon. Recommended some information be held back.<sup>62</sup>

Marumoto in public testimony confirmed that an attempt was made to restrain publication of census data that might have had an adverse

<sup>59</sup> 13 *Hearings* 5280.

<sup>60</sup> Exhibit No. 262-32, 13 *Hearings* 5626.

<sup>61</sup> Exhibit No. 262-34, 13 *Hearings* 5627.

<sup>62</sup> Exhibit No. 262-35, 13 *Hearings* 5632.

political impact in the Spanish-speaking community.<sup>63</sup> However, in a committee interview, Desmond Barker of the Census Bureau said he recalled no contact from White House or campaign officials concerning this data. He stated that the information concerned was not held back but released.

## B. ACTIVITIES RESPECTING BLACK CONSTITUENTS

While activities of a responsiveness nature in pursuit of black votes appear not as numerous as those regarding the Spanish speaking, documents obtained by the Select Committee indicate that there were nonetheless certain efforts in this area. Several examples follow.

### 1. JAMES FARMER MATTER

On April 18, 1972, Paul Jones of CRP wrote a "Confidential" memorandum to Malek entitled "Meeting with James Farmer" <sup>64</sup> that stated, in full text:

In the Brown-Jones meeting with James Farmer, the following points of interest were discussed:

1. Farmer's willingness to work in support of the President. (It was agreed he might better serve at this time by maintaining a non-partisan posture.) Jim expects to build on the attitude coming out of Gary.

2. His speaking engagements (he is to send a list of his engagements). We will seek to arrange media interviews in connection with his key appearances.

3. Farmer's interest in funding for his think tank proposal. He's seeking \$200,000 seed money from HEW. (This should be moved on but should allow for a final Brown-Jones check-off in order to re-inforce Farmer's involvement. Additionally, there is some need that the think tank initially focus on key issues of interest to Black voters.<sup>65</sup>

On April 28, Frank Herringer submitted to Malek a "Confidential" talking paper for use in briefing John Mitchell on the basic tenets of the Responsiveness Program. This document—which, as Malek at his executive session testified, fairly represented the briefing given Mitchell <sup>66</sup>—contained the following statement:

Paul Jones wants favorable action on an HEW grant for James Farmer that would enable Farmer to have time to speak in support of the re-election.

Mr. Farmer did receive a \$150,000 HEW grant as the communications from that Department, found at exhibit No. 18 <sup>67</sup> indicate.

Jones, in his executive session before the committee, denied that he had any "check-off" powers relating to the Farmer grant or any other governmental grant. (A question, of course, remains as to the propriety of this CRP official participating in governmental grant processes.) Although Jones admitted in executive session that certain officials—for example, Brown—were attempting to influence Federal

<sup>63</sup> 13 *Hearings* 5324.

<sup>64</sup> Malek exhibit No. 26, 18 *Hearings* 8419.

<sup>65</sup> Robert Brown, at the time of this meeting, was Special Assistant to the President.

<sup>66</sup> See 18 *Hearings* 8232; Malek exhibit 7, 18 *Hearings* 8345.

<sup>67</sup> 18 *Hearings* 8837.

funding processes for campaign reasons, he claimed that he was personally not involved in such activities.<sup>68</sup> Brown, on the other hand, claimed in executive session, that, while he did involve himself in the grant-making process, he never promoted a grant for reelection purposes.<sup>69</sup> Malek testified that, in regard to the Farmer transaction, he believed he took no action to insure that Farmer's application was approved and instructed no one to do so. He denied that any improper *quid pro quo* was involved in the Farmer grant.<sup>70</sup>

After Malek testified, the committee obtained a May 2, 1972, memorandum<sup>71</sup> from Malek to Robert Finch, former Secretary of Health, Education, and Welfare and White House aide, which is reprinted here in its entirety:

Following our conversation I have had several meetings with Jim Farmer and have had him meet with Bob Brown and Paul Jones (the head of the campaign's Black Vote Division). The results of these meetings and follow-up actions which I have instigated are as follows:

1. Farmer has been given a grant from OE to fund his project here in Washington.
2. He will now be able to spend a major part of his time on the above project while also making time available to the re-election efforts.
3. He has agreed to do speaking on our behalf and also to talk to key black leaders in an effort to gain their loyalties.

I feel that Jim is in a position to make a major contribution to our effort and am confident that he will. At the same time we are going to try to maintain his involvement in a manner that is not overtly partisan and does not harm his credibility.

Many thanks for getting this started and for putting me onto it. [Emphasis added.]

Upon appraisal of this memorandum, Mr. Malek maintained his contention that there was no improper *quid pro quo* respecting this grant, but stated that the memorandum indicated that he or his staff "checked" on this matter before the award was finalized. Mr. Farmer, by both affidavit and letter<sup>72</sup> also has denied that there was any *quid pro quo* involved in this grant, stating that "it was not payment for any services rendered to the campaign". He has, in fact, averred that "I did no campaigning whatever, in any shape, manner or form. That fact is a matter of the public record."

## 2. CHARLES WALLACE MATTER

On July 14, 1972, Jones, in the memorandum that is exhibit No. 19,<sup>73</sup> reported to Malek under the heading "Major Accomplishments" that:

<sup>68</sup> Jones executive session, pp. 127-31.

<sup>69</sup> See, e.g., Brown executive session, pp. 36-7, 49.

<sup>70</sup> 18 Hearings 8270-8272 Brown testified that: " \* \* \* I did not call in people and say, well, we are just going to help all Republicans this time, or are we going to help all people that's going to vote for Nixon next time. None of that was ever done, and there is nobody who can ever say that Bob Brown called him up and said we are going to give you a contract over here if you vote for the President down the road here, or if you come over here, we are going to do this. There was no *quid pro quo* kind of deals made, particularly in view of the fact that there were many people, I would say, that most of them who got the money as the record will clearly show, were working \* \* \* Democrats."

<sup>71</sup> Exhibit No. 18, 19 Hearings 8837.

<sup>72</sup> Exhibit No. 18, 19 Hearings 8843.

<sup>73</sup> 19 Hearings 8848.

Thru White House contacts initiated new efforts to assist Charles Wallace, President, Wallace & Wallace Fuel Oils, in overcoming present constraints to expand his business. This has, for the time being, allowed us to assist a staunch Nixon supporter.

Neither Mr. Jones nor Mr. Wallace was able to inform the committee exactly what "constraints" were overcome by the "new efforts" that were initiated. Mr. Wallace, in an affidavit dated April 13, 1974,<sup>74</sup> states that on October 26, 1972, he received a SBA 8(a) contract for an estimated \$2,146,220.<sup>75</sup> Wallace, in this affidavit, claims there was no *quid pro quo* arrangement that promoted this contract and the Select Committee has received no substantial evidence of such an arrangement. However, the committee notes that on September 12, 1972, Wallace sent approximately 2,000 letters to minority SBA 8(a) contractors seeking their support for the President's reelection, as the documents collected at exhibit No. 19 demonstrate.

### 3. ADDITIONAL INVOLVEMENT OF CAMPAIGN OFFICIALS IN GOVERNMENTAL PROCESSES

Other documents obtained by the Select Committee reveal election-motivated involvements by campaign officials in decisionmaking processes respecting the expenditure of Federal funds to aid blacks. For example:

1. In a January 17, 1972, "Weekly Report"<sup>76</sup> Jones wrote Robert C. Odle, CRP administrative director, that:

Data was collected in connection with setting up briefing books on (1) black communities throughout the Nation, (2) list of key contacts by states and (3) minority recipients of grants, loans, and contracts. (A need is to develop coordination with agencies on future grants and contracts *to insure maximum benefits.*) [Emphasis added.]

This communication was passed on verbatim to Mr. Mitchell, then the Attorney General, in a "Confidential" January 19 memorandum by Mr. Odle.<sup>77</sup>

2. In a "Confidential Weekly Report" dated March 24, 1972, to Malek from Jones,<sup>78</sup> the latter wrote: "A meeting in the office of John Evans resulted in agreement on strategy to effectively deal with OMBE."

3. An April 4, 1972, "Weekly Activity Report"<sup>79</sup> from Jones to Odle stated:

We met during the week with members of the Washington Team in review of OMBE grants to work out strategy for greater impact in connection with the campaign. We also were in contact with local trade association representatives who

<sup>74</sup> See exhibit No. 19, 19 *Hearings* 8856.

<sup>75</sup> A letter from Mr. Wallace's counsel is also found at exhibit No. 19.

<sup>76</sup> Exhibit No. 20, 19 *Hearings* 8862.

<sup>77</sup> Mr. Odle does not recall this matter, or any of the items discussed in this section. He stated he was the designated recipient of various weekly reports, the substance of which he would send to Mr. Mitchell after the secretarial staff had put them in the proper format. He said he often would not read the reports he received.

<sup>78</sup> Exhibit No. 21, 19 *Hearings* 8863.

<sup>79</sup> Exhibit No. 22, 19 *Hearings* 8864.

offer possible funding alternatives—and developed a proposal in this regard. [Emphasis added.]

4. Jones, in a “Weekly Activity Report” to Malek dated September 7, 1972,<sup>80</sup> stated:

Attended White House OMBE meeting to clarify status of minority-oriented proposals *that have been submitted by active supporters.* [Emphasis added.]

5. In another “Weekly Activity Report” dated February 22, 1972,<sup>81</sup> Jones wrote Odle:

We attended the national meeting of Opportunity Industrialization Centers (OIC—minority employment program). OIC is presently receiving approximately 80% of its budget [from Administration programs] yet scheduled speakers who were critical of the President (Roy Wilkins, NAACP; Ralph Abernathy, SCLC; Vernon Jordan, National Urban League). We are pursuing, and are in definite need of, assuring [that] future grants, loans, contracts and appointments serve the Black community in a more positive manner than in the past. Examples of such funding coming back to haunt us is [sic] seen in the Model Cities, OMBE, and OEO programs.

An almost identical paragraph is contained in a February 25, 1972, “Memorandum for the Attorney General Through: Jeb S. Magruder” from Robert Odle. In an earlier “Confidential” memorandum dated February 18, 1972, to Magruder,<sup>82</sup> Jones had recommended:

That the Administration bring under closer scrutiny its program of grants and loans and specifically that Labor Department manpower personnel follow-up with OIC.

6. In a January 10, 1972, “Weekly Report,”<sup>83</sup> Jones wrote Odle:

In Chicago Jones conferred with the Reverend Jesse Jackson (formerly of S.C.L.C.’s Operation Breadbasket) of the recently formed organization PUSH. Jackson is now seeking financial support for the new group (which has an economic thrust) and is also anxious to meet with the President. His support and/or “neutrality” (lack of active support of another candidate) could go far in favorably swinging black votes to RN. He is considered a definite possibility and appears anxious to move. Some early decision, policy-wise, should be made regarding follow-up posture (and Jones suggests that it should include input from Bob Brown). At Jackson’s invitation Jones attended a luncheon of leading black businessmen of Chicago. A number are ready to assist us and had praise, during a press conference, for the Administration’s efforts and assistance for minority owned banks. Jones suggests an additional area that should be considered for federal deposits is with minority-owned Savings and Loan Associations!—and at an early date.

<sup>80</sup> Exhibit No. 23, 19 *Hearings*, 8865.

<sup>81</sup> Exhibit No. 24, 19 *Hearings* 8867.

<sup>82</sup> Exhibit No. 25, 19 *Hearings* 8869.

<sup>83</sup> Exhibit No. 26, 19 *Hearings* 8870.



Reverend Jackson, however, has informed the Select Committee that he never sought or received Federal funding for PUSH. For a time he was a supporter of Senator McGovern.

7. On May 11, 1972, Jones sent a "Weekly Activity Report" to Malek that declared:<sup>54</sup>

Coordinating and developing with Bob Brown's office a strategy for a 30 million dollar negotiation for the Dept. of Labor.

Neither Jones nor Brown were able to provide significant details to the committee as to the subject matter of this negotiation.<sup>55</sup>

#### 4. SOLICITATION OF CONTRIBUTIONS FROM BLACK RECIPIENTS OF FEDERAL MONEYS

There is evidence that campaign contributions were sought from blacks whose firms held Government contracts, grants, and loans. The most prominent example of this activity concerned the solicitations for a \$100 a plate campaign dinner for blacks in Washington on June 10, 1972.<sup>56</sup> Contributing to this dinner, for example, were Jack Crawford and Charles Wallace who have been previously identified in this report as Government contractors.

Another individual solicited was Sam Harris, who is president of the Trade Association of Minority Management Consulting Firms and also president of Sam Harris & Associates, a Washington-headquartered firm with Government contracts. Harris, in a committee interview, indicated that, in regard to solicitation for this dinner and other approaches in 1972 for campaign contributions by Paul Jones and others, he was made to feel that his continued success in obtaining Government contracts would, in significant degree, be dependent on his contributing to the President's reelection. Harris testified that he did make several contributions to the President's campaign. He said he was also asked, in regard to the June 10 dinner, to assist in arranging the attendance of other black Government contractors.

One incident related by Harris is particularly relevant. Harris states that the day before the election he was called by Norris Sydnor, an assistant to Brown at the White House, and told that his company was on a HEW list for a \$250,000 HEW contract, a circumstance that surprised Harris since he had never submitted a proposal to HEW. Harris said Sydnor then asked for a \$1,000 contribution to the campaign, which Harris subsequently made after Sydnor observed that the HEW award would more than cover the amount of the contribution. Several months later, having heard nothing from HEW, Harris asked Sydnor about the contract, but did not receive a satisfactory response. The contract never materialized.

Sydnor, in a staff interview, denied calling Harris the day before the election to inform him he was under consideration for HEW funding. He also denied soliciting Harris for \$1,000 on that day, although he admitted requesting contributions from numerous people—perhaps including Harris—at various times.

<sup>54</sup> Exhibit No. 27, 19 *Hearings*, 8871.

<sup>55</sup> Jones executive session, pp. 102-03; Brown executive session, p. 55.

<sup>56</sup> See 18 *Hearings*, 8259-60; Brown executive session, p. 66.

### C. THE RESPONSIVENESS PROGRAM PROGRESS REPORT

Mention has been previously made of the June 7, 1972, "Confidential Eyes Only" progress report on the Responsiveness Program from Malek to Haldeman.<sup>87</sup> While this report, in an attachment apparently written by Robert Davison,<sup>88</sup> details 12 separate "results" of the Responsiveness Program for the week ending June 2, 1972, the present discussion is limited to several of these specifics.

#### 1. EEOC-UNIVERSITY OF TEXAS MATTER

Two paragraphs of the report deal with an EEOC investigation concerning the University of Texas; the first was prepared by Davison, the second is Malek's summary of Davison's account:

Senator Tower was informed by Vice Chairman Holcomb that Ed Pena, Director of Compliance, had recommended to Bill Brown that EEOC sue The University of Texas. Brown appeared to agree. If such a suit took place, the result would be a serious negative impact in a key state. Brown denies that the suit is under consideration. This should be followed carefully.

\* \* \* \* \*

We garnered from reliable sources in the Equal Employment Opportunity Commission that the Commission was preparing to sue the University of Texas for discrimination in the hiring of faculty. This could be disastrous in Texas. When queried, Bill Brown, Chairman of EEOC, agreed not to pursue it. I will continue to follow this situation closely

Chairman Brown of the EEOC has submitted an affidavit to the Select Committee<sup>89</sup> denying the specifics of these paragraphs and presenting his account of the events that transpired concerning this matter. His statement is that the only contact with him in this regard was from someone seeking information. He states that he was not pressured by anyone to forego an EEOC proceeding.

Malek has testified that the statements in this memorandum constitute "puffing" on his part and that he did not personally keep abreast of this matter as claimed.<sup>90</sup> In any event, several observations should be made. A contact of some nature was made with the EEOC. (It should be recalled that affecting "legal or regulatory actions" for reelection purposes was one of the goals of the Responsiveness Program set forth in the March 17, 1972, Malek to Haldeman memorandum.<sup>91</sup>) Malek claimed to Haldeman that his forces had squelched this proceeding. Both Malek and Haldeman testified that Haldeman did not express disapproval of this action or instruct Malek to cease endeavoring to influence proceedings before regulatory agencies.<sup>92</sup>

<sup>87</sup> Malek exhibit No. 16, 18 *Hearings*, 8380.

<sup>88</sup> Davison, in a staff interview, admitted that the projects described in this attachment were his. The committee has learned that at least one other progress report was forwarded to Mr. Haldeman by Daniel Kingsley, who assumed administrative responsibility for the Responsiveness Program when Mr. Malek moved to CRP in July 1972. In fact, Mr. Kingsley, in a committee interview, indicated that several other progress reports were prepared. The committee has not obtained these documents and it appears that all copies were destroyed. See section VII *infra*.

<sup>89</sup> Malek exhibit No. 18, 18 *Hearings*, 8389.

<sup>90</sup> 18 *Hearings*, 8240-1.

<sup>91</sup> Malek exhibit No. 4, 18 *Hearings*, 8311.

<sup>92</sup> See 18 *Hearings*, 8181-82, 8223. There is no evidence that Haldeman expressly stated his approval of Malek's claimed actions in this regard. Haldeman does not recall discussing this progress report with the President. (18 *Hearings*, 8182.).

## 2. DOCK AND WHARF BUILDERS INVESTIGATION

The progress report contains another apparent claim of interference with a regulatory proceeding, this time in the Labor Department. First Davison's statement of the matter in the backup document, then Malek's:

*Local 454, Dock and Wharf Builders, Philadelphia, Pennsylvania, requested 5/10/72. Herman Bloom, Spector's assistant at the Pa. CRP requested that the subpoenaed records of Local 454 be returned. The Business Agent of the Union is a Republican supporter and could be very helpful to the Administration in impacting the blue collar vote in a key county. The books were returned on 5/23/72 and the Union given a clean bill of health*

\* \* \* \*

The Department of Labor ruled that Local 454 of the Dock and Wharf Builders Union in Philadelphia, whose steward is an active backer of this Administration, was not responsible for the illegal actions of its President. This action was requested by the Pennsylvania Committee for the Re-Election of the President, and they report that this action had a very strong impact on the local ethnic union members.

The request for action in this regard came to Malek from Al Kaupinen, a CRP staffer.<sup>93</sup>

While Mr. Davison did make contacts with Labor on this matter, the Select Committee has not established that his contacts actually produced the result claimed, at least by implication, in the progress report. But the evidence does suggest that an attempt to influence the labor proceeding was made. Further, there is testimony that Haldeman, when this "result" was reported to him, did not criticize Malek for his actions nor order him to refrain from operations of this nature.<sup>94</sup>

## 3. FANNIE MAE INQUIRY

On March 29, 1972, Harry Flemming of CRP sent Malek the following "Confidential" memorandum:

Our Pennsylvania Committee for the Re-election of the President has brought to our attention that Michael Stack, a Democrat Ward Leader, last year earned \$58,000 in mortgage foreclosurer from Fannie Mae. Mr. Stack happens to be the ward leader in the same ward as William Austin Meehan, who is the Republican leader in Philadelphia. Meehan can't understand why the type of work that Stack is doing has to be given to a Democrat ward leader who is working against our interests. Perhaps a qualified Republican could be found who could handle Fannie Mae business in that particular area. Any help your office can give rectifying this situation would be helpful.<sup>95</sup>

The progress report to Haldeman supplies certain details of the response to this request.

<sup>93</sup> Malek exhibit No. 17, 18 *Hearings*, 8388.

<sup>94</sup> 18 *Hearings*, 8181-82, 8238-40, 8243-44.

<sup>95</sup> Malek exhibit No. 16-A, 18 *Hearings*, 8387.

*William Meehan, Philadelphia, Pa.; requested 3/29/72.* William Meehan, Republican ward leader in Philadelphia, has requested that his Democratic counterpart, Michael Stack, be prohibited from receiving the substantial compensation he earns as a fee attorney for Fannie Mae. The impact of such action would not be of great benefit to the re-election. It is not possible for us to significantly change Mr. Stack's earnings as he is a close friend of Congressman Barrett, a member of the key HUD committee that appropriates funds for Fannie Mae.<sup>96</sup>

Further information respecting contacts by Rob Davison on this matter is found in the affidavit of former HUD official Richard Goldstein.<sup>97</sup>

## D. GSA MATTERS

### 1. CAMPAIGN INVOLVEMENT IN GSA CONTRACT AWARDS

Evidence received by the Select Committee indicates that campaign officials were participating in the selection process for the awards of GSA architectural and engineering design contracts. The following passage is from an affidavit<sup>98</sup> obtained by the Select Committee from John E. Clarke, a former White House staffer who, as his affidavit confirms, had certain responsibilities relating to the Responsiveness Program.

The Responsiveness Program generated activity with architectural engineering contract awards by GSA. When contract awards were to be made, which are non-bid awards, the Architectural Engineering Contract Award Board would select 3 to 5 firms who were technically qualified to fulfill the contract and these firms were recommended to GSA. I would then be contacted by Larry Rousch of the GSA and Rousch would give me the names of firms who were being considered for an award. I would call Lee Nunn at the Finance Committee to Re-elect the President (FCRP) and ask Nunn if the Committee had any preference as to which of the firms should receive the award. It is my understanding that Nunn would then check with various sources on the Hill as well as other political sources who might be affected by the contracts to be awarded and ascertain whether or not there was any preference as to the award. In a day or two, Nunn would call me and state there was no preference, if there was none, or indicate which firm was preferred if they had a preference. I would relay the message to Rousch at GSA.

Mr. Clarke told the committee that there were 8 to 10 instances in which this procedure was followed. He also expressed his view that the responsiveness concept respecting GSA worked well. Mr. Rousch, in an affidavit submitted to the committee,<sup>99</sup> admitted that "Mr. Clarke's recommendations were accorded considerable weight."<sup>1</sup> He could not recall during a committee interview a specific situation where

<sup>96</sup> Malek exhibit No. 16, 18 *Hearings*, 8384.

<sup>97</sup> Malek exhibit No. 21, 18 *Hearings*, 8399.

<sup>98</sup> Malek exhibit No. 19, 18 *Hearings*, 8393.

<sup>99</sup> Malek exhibit No. 20, 18 *Hearings*, 8397.

<sup>1</sup> In a committee interview he used the term "great weight."

Mr. Clarke's recommendation was rejected. Mr. Roush gave the committee a list of nine contracts where Mr. Clarke had an input. Mr. Nunn, however, could not remember any specific instance where the names of potential GSA contractors were submitted to him for comment, even though he conceded this very well could have happened. Mr. Clarke stated that a second progress report to Haldeman—which the Select Committee has not obtained—contained information as to his activities respecting GSA contracts.

## 2. SOLICITATION OF POLITICAL CONTRIBUTIONS

The following finding of facts is from the Civil Service Commission's opinion *In The Matter Of Lewis E. Spangler, et cetera*, CSC No. F-1783-72, etc., March 29, 1972,<sup>2</sup> in which six GSA employees were found to have taken an active part in political management in violation of section 4.1 of Civil Service Rule IV and 5 U.S.C. section 7324(a) (2):

The record shows that during a meeting in his office on November 4, 1971, Lewis E. Spangler, Acting Commissioner of the Federal Supply Service, General Services Administration (GSA), advised George W. Dodson, Assistant Commissioner, Office of Automated Data Management Services, Federal Supply Service, GSA, that a "Salute to the President Dinner" was scheduled for November 9, 1971, that tickets were available, and that he (Mr. Dodson) and his subordinate employees could purchase, or contribute toward the purchase, of the tickets. Mr. Dodson relayed this information to his division chiefs at a meeting held in a conference room adjacent to his office on the same or the following day. Respondents Elliot Gold, Reuben T. Morgan, Joseph A. Weisgerber, and Stephen White were present at this meeting. Mr. Dodson informed them that they had a "management objective" to meet; namely, the purchase of one and one-half tickets for a total of \$750; that employees who contributed toward the purchase of a ticket would have their names placed in a hat and the person whose name was drawn would attend the dinner. Thereafter, Mr. Gold solicited and received contributions by check from four employees totaling \$225. Three checks were for \$25 and a fourth for \$150; Mr. Morgan solicited and received one \$25 contribution by check; Mr. Weisgerber solicited and received two \$25 contributions by check; and Mr. White solicited and received a check for \$25. The checks received by Gold were turned over to Dodson at the latter's office; Weisgerber delivered his checks to Dodson at a local restaurant.

The record does not show what disposition Dodson, Morgan, and White made of the checks received by them. However, the "no contest" plea in each case under the Stipulation and Waiver of Hearing is taken as an implied admission of the truth of the allegations contained in the Letters of Charges. *Wigmore on Evidence*, sec. 1066. It is found,

<sup>2</sup> Exhibit No. 28, 19 Hearings 8872.

therefore, that the "Salute Dinner" was a Republican Party political fund-raising affair, and that the proceeds of the sale of tickets to the "Salute Dinner," as shown above, were channeled by the Respondents to the Republican Party pursuant to a plan communicated by Lewis E. Spangler to George W. Dodson, Jr., on November 4, 1971.

The six individuals involved were given suspensions without pay ranging from 30 to 60 days.<sup>3</sup>

## E. ACTIVITIES REGARDING THE STAFFING OF FEDERAL POSITIONS

As remarked, one objective of the Responsiveness Program was to insure that personnel placements with the Government were made to benefit the President's reelection campaign. In fact, the White House Personnel Office (WHPO) under Malek and Daniel Kingsley had been engaged in a program to insure that political considerations were taken into account in Government staffing long before the 1972 election campaign began.<sup>4</sup> The evidence suggests that WHPO personnel intended that political considerations be taken into account not only in regard to placement on part-time boards and commissions and the employment of other noncareer personnel, but also concerning the staffing of positions in the competitive service, that is, executive branch positions governed by civil service laws and regulations. In fact, as subsequently discussed, Malek's testimony in executive session indicates that the departments and agencies were asked by the WHPO to give special consideration to politically important prospects even in regard to career positions.<sup>5</sup> The political use of Government positions in regard to the Spanish-speaking community has been treated previously, but it is useful here to note other aspects of the Government staffing process.

### 1. PART-TIME BOARDS AND COMMISSIONS

A March 1, 1971, memorandum from White House staffer John Freeman to Kingsley (copy to Malek) discusses "Staffing Strategy for Part-Time Boards and Commissions."<sup>6</sup> While this memorandum complains about the absence of staffing programs "for strengthening and broadening support for the 1972 elections," it does note that:

... Al Kaupinen did establish a procedure for securing the appointments of major financial contributors. This has been successful and should be continued. ...

The memorandum contains recommendations to meet 1972 campaign needs. One proposal was to insure that a large percentage of appointments were made from States crucial to the President's reelection. The recommendations also contained the following entry:

<sup>3</sup> See section V.7.A. *infra* regarding similar alleged conduct in the Veterans' Administration.

<sup>4</sup> Mr. Kingsley has stated that the operations of the WHPO were never part of the Responsiveness Program, but remained an entirely independent process. But the relevant documents, such as the Mar. 17, 1972, Malek to Haldeman memorandum (Malek exhibit 4, 18 *Hearings* 8311) that sets out the basic responsiveness plan, indicate that WHPO personnel actions were part of that program.

<sup>5</sup> 18 *Hearings* 8225-28. Mr. Ehrlichman stated in a committee interview that there was a general "itch, on our part, to get friends in the Departments rather than the people we found there," an "itch," he said, that extended to competitive service positions. (18 *Hearings* 8194.)

<sup>6</sup> Exhibit No. 29, 19 *Hearings* 8882.

III. Financial contributor—list compiled by WHPO with inputs from RNC, senior WH staff, Stans, etc.; would be placed primarily on Presidential Boards or given appropriate patronage rating and referred to Departments.<sup>7</sup>

Also of interest is an August 31, 1972, memorandum from Clayton Yeutter of CRP to Frank Herringer,<sup>8</sup> that states:

... [O]ne of the names I submitted to you several weeks ago for a possible appointment to a committee of some kind was a man named Wenk from South Dakota. Obie O'Brien, our Nixon chairman, says that he believes we will get a very large contribution from him if an appointment comes through. Can you check on this for me? Or should I just call Kingsley?

On September 6, 1972, Herringer wrote Kingsley that:

Clayton Yeutter and the Nixon Chairman from South Dakota believe that Mr. Wenk (résumé attached) will be a big help to us if we can appoint him to an advisory board or commission.

I assume that a departmental in Agriculture would be the only alternative. Of course, time is of the essence—the quicker we can get a commitment, the better. Please let me know the prospects. I would rate this as a MUST.<sup>9</sup>

## 2. NONCAREER PERSONNEL GENERALLY

On February 17, 1971, Horton transmitted a memorandum to Malek and Kingsley, to which was attached a document entitled "Talking Points on Changes in Management of Noncareer Personnel."<sup>10</sup> This memorandum, here quoted in full text, appears to indicate White House views as to how noncareer appointments by the departments should be made:

Because this paper will be left with the Departments, we deleted direct references to making patronage placements. However, the concept of setting Departmental patronage targets and the responsibilities for follow-through should be made clear verbally. The following points should be made clear to the Department and Agency heads:

1. Informal targets will be established on how many full-time and part-time placements each Department can reasonably absorb.

2. Following these guidelines and reflecting the skills of the individuals, the WHPO would assign selected politically important candidates to appropriate Departments for placement.

3. It would be the Department's responsibility to match the individual to an appropriate job and report the results back to the WHPO.

<sup>7</sup> John Clarke, who also worked in the WHPO, has confirmed that frequent attempts were made to place financial contributors on regulatory boards and commissions.

<sup>8</sup> Exhibit No. 30, 19 *Hearings* 8888.

<sup>9</sup> See exhibit No. 30, 19 *Hearings* 8888. Mr. Wenk stated he was not offered a Federal appointment and did not make a significant contribution to the President's reelection. O'Brien stated he never mentioned the possibility of a contribution to Yeutter. Yeutter, however, said he only passed on the information O'Brien gave him.

<sup>10</sup> Exhibit No. 31, 19 *Hearings* 8891.

Both Kingsley and Stanton Anderson, a former WHPO staffer, stated that this passage accurately reflected that office's concept as to how noncareer staffing should be handled.<sup>11</sup>

### 3. COMPETITIVE SERVICE POSITIONS

The evidence accumulated by the Select Committee suggests that the WHPO was referring applicants for competitive service positions to the departments and agencies with the urging that political considerations be taken into account in the employment determination. Several documents discovered by the Select Committee are particularly informative in this regard. The first is a form used by certain senior administration officials to instruct the WHPO concerning the political value to the President of a particular placement. Malek exhibit No. 10<sup>12</sup> is an August 30, 1971, memorandum using this form from Clark MacGregor (at that time head of White House congressional relations) to Kingsley concerning a particular applicant. This form contained the following entry to be completed by the sender:

#### IV. Value of Placement to the President Politically

- ☐ Highest political value  
(Must place)
- ☐ High Political Value  
(Place if possible)
- ☐ Moderate political value  
(Handle courteously)
- ☐ Little Political Value  
(Handle routinely)

Upon receipt of an important request for placement, the WHPO would make a staffing recommendation to a particular department or agency that included a grading respecting the political value of placing the individual in question. The WHPO operated in part through special referral units established in the departments and agencies. The Civil Service Commission, at this writing, is pursuing disciplinary action against a number of HUD and GSA officials who were connected or worked with the special referrals units in those institutions. The CSC claims that these persons, on requests from the White House and others, took political considerations into account in the staffing of competitive service positions.

An example of a WHPO request to the departments and agencies is Malek exhibit No. 12,<sup>13</sup> a November 9, 1971, memorandum from Stanton Anderson of WHPO to Mack Warren of GSA re a Leslie Cohen, which reads:

Attached is the resume of Leslie Cohen. Mr. Cohen comes highly recommended to this office and consequently is rated

<sup>11</sup> The civil service laws and regulations relating to competitive service positions do not apply to appointments to Presidential Boards and Commissions and other noncareer assignments. However, appointments to such noncompetitive positions for political reasons at the least must still be judged in light of that provision of the Hatch Act that makes it unlawful for an employee of an executive agency to "use his official authority or influence for the purpose of interfering with or affecting the result of an election. See 5 U.S.C. 732(a) and sec. VIII *infra*.

<sup>12</sup> 18 Hearings 8363.

<sup>13</sup> 18 Hearings 8365.



as a 1 or Must Placement. We would appreciate your investigating the possibilities for him in your department in California. We would also appreciate it if you would keep my office closely informed of your progress on his behalf.

Records received by the Select Committee indicate that Mr. Cohen was treated as a "must" case and offered a position by GSA but declined to accept.

Mr. Anderson, in an affidavit submitted to the Select Committee dated June 4, 1974,<sup>14</sup> has denied he asked the GSA to consider political factors in determining whether Mr. Cohen would be offered a career position. His affidavit continues:

More generally, all referrals that were sent from me to the departments and agencies under the standard White House rating and referral system were for non-career Schedule C job. This was always my intent and my expectation. In some instances, of course, these White House referrals were qualified for career employment and their applications were processed in accordance with normal career procedures if the candidate was interested in a career appointment and he completed the necessary Civil Service employment forms. At no time, however, did I ever ask a department or agency to violate the law or Civil Service regulations to place a person in a career position.

It should be noted, however, that the Cohen referral quoted above does not specify that it was for a noncareer job. Moreover, a May 7, 1971, memorandum to Jack Lemay at GSA from Anderson<sup>15</sup> calls into question certain assertions in his affidavit. This document reads:

Enclosed is the résumé for Mr. George M. Shirey, Jr. He is looking for a GS-13 or 14, PIO type position. He will be qualified with the Civil Service *so he can fill either a career or non-career slot. He is a Must.* Please consider his qualifications and get back to me with the possibilities as soon as possible. Thank you. [Emphasis added.]<sup>16</sup>

When he read this document, Mr. Anderson contended that Mr. Shirey was a "must" only for a noncareer slot and reiterated that he had no intention to pressure any department or agency to violate Civil Service standards.

Mr. Kingsley has stated to the committee that "must" or "high priority" referrals were not in reference only to noncareer jobs. He said it was left to the body involved to determine where a recommended individual would be placed.<sup>17</sup> Malek's testimony appears to comport with Kingsley's statement in this regard and provides other evidence respecting what was expected from the departments and agencies:

<sup>14</sup> Exhibit No. 32, 19 *Hearings* 8897.

<sup>15</sup> Exhibit No. 33, 19 *Hearings* 8899.

<sup>16</sup> Exhibit No. 33 also contains a followup document by Lemay to other GSA officials stating that Mr. Shirey was a "must" and that the recipients should get back to him on this matter "as soon as possible." Another "must" referral by Anderson and a "high priority" referral by Robert Davison are included, with related papers, in exhibit 33. The Davison referral appears clearly to relate to a career position. Exhibit 33 also contains a No. "3" or courtesy referral by Anderson of an individual for a specific job that, according to CSC, is a career position.

<sup>17</sup> Kingsley, however, denied any intent to pressure the departments and agencies to violate Civil Service laws and regulations.

HAMILTON. . . . Is it true . . . that you were instructing the agencies and departments when you referred names to them . . . whether or not the placement was a "must" political placement, or a "high priority" political placement—

MALEK. During my tenure in that particular position, we did use the term "must place" occasionally. Rather than taking that literally, it meant that it was the highest priority and that we would want the agency to search very hard for an appropriate position.<sup>18</sup>

\* \* \* \* \*

HAMILTON. But the basic question is . . . whether or not your staff was asking the agencies and departments to take into consideration political considerations in hiring, and I take it the answer to that is "yes." Is that correct?

MALEK. Now I think we have to differentiate here. There are two different ways to approach this. One would be to say that for this particular career position we want you to hire this person because of his political—the political advantages, regardless of who else is qualified, or whether that person we are recommending is qualified. That, we were not doing.

What we were doing in the case of a career position is we would be submitting the name of a person to a department and asking them to determine where this person would be qualified to serve. And, then once determining that, that they were qualified and competitive, to serve in that position, to try to get them into it.

So, what we were really doing is facilitating the personnel process in getting somebody in that door, where without the political push, they may not have been getting into the door. But we were not interfering with the competitive process of filling a particular position.<sup>19</sup>

\* \* \* \* \*

HAMILTON. Are you saying that, before the campaign, these referral units [at HUD and GSA] were not handling career personnel? Competitive service personnel?

MALEK. No; I am not saying that. What I am saying is that these referral units existed throughout much of the administration and they had two purposes.

One was to do the screening and assist in the recruiting and evaluation and placement of people into noncareer positions. And, second, to take all of the patronage requests that were sent to them directly by the Congress or through us to them and funnel them to the appropriate place in the department for consideration. So that if we would forward to them, or if a Congressman would forward to them, a particular recommendation, they would then either evaluate that person for a non-career position, or if it was determined that there were no noncareer positions and that a career position was desired, and it was important to place the person, they would then circulate that person through the department so that he could be evaluated for various career positions.

<sup>18</sup> 18 *Hearings* 8227.

<sup>19</sup> 18 *Hearings* 8227-28.

And, if he qualified, and was competitive, for one of them, brought on board. I think that is a distinction.

HAMILTON. Was it your understanding that the referral units in the various agencies were to give special consideration to names sent over by the White House that were designated "must"?

MALEK. Yes. Yes, they were to give special consideration. Absolutely. But the special consideration was not in competition for a specific job, but to insure that the person was exposed to a range of jobs for which he or she was qualified.<sup>20</sup>

## F. ACTIVITIES REGARDING THE ELDERLY

### 1. USE OF FEDERAL RESOURCES

The evidence the committee has gathered indicates that Federal resources were employed to secure the support of older Americans. Exhibit No. 36<sup>21</sup> is a November 9, 1972, memorandum from Webster (Dan) Todd, director of the CRP older Americans voter bloc group, to then campaign director Clark MacGregor. This document, which is a final report on campaign activities respecting the elderly, states, under the heading "Strong Points":

I doubt if there has ever before been such a massive effort by a political organization to involve itself directly in the daily lives of so many. This effort, of course, can only be accomplished in an encumbent [sic] situation and the available resources of the Administration through Arthur Flemming, Elliot Richardson and the Domestic Affairs Council were maximized . . .

Elsewhere in the same memorandum, Todd refers to "an extensive and coordinated use of USG resources."

#### *a. Government Brochures*

Todd, in a staff interview, stated that several departments and agencies prepared, for campaign use and at Government expense, brochures reflecting their services for the elderly. Todd stated that the requests for these brochures originated with him, but were funneled through the Domestic Council.<sup>22</sup> Todd was unaware whether the departments and agencies involved had perceived that the requests actually came from CRP.

Various documents obtained by the Select Committee also indicate that Government brochures were prepared for political purposes. Evans exhibit No. 6<sup>23</sup> is an April 14, 1972, document entitled "Pro-

<sup>20</sup> 18 *Hearings* 8229. The committee has received evidence from Stephen C. Royer, a former Action staff recruitment officer during 1971-72, indicating that the Action Personnel Office, under the direction of Mr. Alan M. May and at the urging of White House officials, was taking political considerations into account in the staffing of competitive service positions. Mr. May has stated to the Select Committee that it was not his intent or purpose to politicize the procedure for filling competitive service positions. Mr. May, however, is the author of a draft "Federal Political Personnel Manual" (exhibit No. 35, 19 *Hearings* 8902) dated 1972 and found in Mr. Malek's CRP files that discusses methods by which non-supportive career civil servants could be removed from competitive service positions so that those positions could be filled by persons loyal to the President to his political benefit.

<sup>21</sup> 19 *Hearings* 9051.

<sup>22</sup> As subsequently discussed, L. J. (Bud) Evans, who was on Charles Colson's White House staff and specialized in aging matters, disputes that Todd was the progenitor of these brochures. (18 *Hearings* 8464; exhibit No. 41, 19 *Hearings* 9217.)

<sup>23</sup> 18 *Hearings* 8536.

posed Communications Support Program for the Older Americans Division Committee for the Reelection of the President." Under subsection "E," entitled "Brochures/Direct Mail," the following entry appears:

Government agencies—each agency who has senior citizen programs will be asked to produce an informational brochure stating just exactly what the agency can do for older Americans. One will be released every two weeks beginning September 1. The agencies who will be asked to participate are:

ACTION  
HEW  
HUD  
DOT  
OEO  
AGRICULTURE  
LABOR

On the cover of this document Todd wrote: "Gangbusters! Let's make it happen."<sup>24</sup>

It appears that at least HEW, HUD, DOA, DOL, Action, OEO, and VA actually produced brochures. Copies of these brochures are contained in exhibit No. 38.<sup>25</sup> The Comptroller General has stated that the costs of producing and mailing the DOA, HUD, DOL, Action, OEO, and VA brochures totaled around \$263,000.<sup>26</sup> The Comptroller General noted that these six publications were distributed in accordance with lists and preprinted mailing labels supplied by the White House.<sup>27</sup> He also reported the assertions of various agency officials that this was the first time a concerted effort to produce a number of aging brochures had been made by an incumbent administration.

Other campaign and White House documents strongly suggest a political purpose behind the brochures. On June 7, 1972, William Novelli of CRP wrote a confidential memorandum entitled "Government White Papers and Brochures on Older Americans,"<sup>28</sup> to Todd and L. J. Evans. This memorandum is a review of the brochures project as of that date and also contains suggestions as to how to proceed. Under the heading "Background," Novelli wrote:

We are all in agreement that brochures produced and distributed by government departments and agencies will be important in persuading older voters to re-elect the President. These brochures will be non-partisan enough to break through

<sup>24</sup> Exhibit No. 37 (19 *Hearings* 9055) is a Mar. 7, 1972, "confidential" memorandum to John Mitchell from Todd attaching a "Campaign Plan for Older Americans," which indicates (p. 6) the intention "to maximize all of the resources at the disposal of the Administration" to publicize the President's efforts for older Americans. It continues: "These resources include the use of printed materials, films, personalized direct mail, commercial and public service radio and TV time, editorial and other print exposure, etc."

<sup>25</sup> 19 *Hearings* 9135. Exhibit No. 38a, 19 *Hearings* 9205, contains two memorandums from Des Barker of the White House staff to various Department and Agency Public Information Officers indicating that additional brochures were contemplated. This assumption is supported by a May 23, 1972, Evans memorandum found at exhibit 47, 19 *Hearings* 9241. There was also a HEW brochure prepared in 1971, Evans exhibit 20, 19 *Hearings* 8585. The preparation of this brochure was a separate matter and most of the memorandums discussed below do not relate to this publication.

<sup>26</sup> See exhibit No. 38, 19 *Hearings* 9135.

<sup>27</sup> 18 *Hearings* 8471-72.

<sup>28</sup> Evans exhibit No. 10, 18 *Hearings* 8566.

the election year aversion to political rhetoric, but will be strongly supportive of the President.

After outlining his views as to the contents of the brochures, Novelli, under the heading "Distribution, Timing and Coordination," stated:

The agencies and departments should be requested to develop the brochures immediately, along with a plan for mass distribution.

We can indirectly check copy and also stagger the release of the brochures to insure a steady stream between now and late September.

Exhibit No. 40 <sup>29</sup> is an August 4, 1972, CRP memorandum for Clark MacGregor from Fred Malek entitled "Older American Progress." Under the caption "Administration Support", Malek stated:

The Older Americans project team has been particularly imaginative in the use of administration resources to support the re-election. Specifically, they have arranged for each Department and Agency with programs that help the elderly to develop and distribute a brochure that explains these programs. The first of the brochures (Department of Agriculture) is off the presses, and mentions the President prominently—not surprising since we control the content of each brochure. This brochure and subsequent ones will be direct mailed to approximately one million persons \* \* \* <sup>30</sup>

Mr. Evans, in his executive session before the committee on May 28, 1974, vigorously denied that he perceived the primary purpose for these brochures as political. The main goal, he said, was to inform the elderly of the benefits and programs available to them and, he contended, the brochures were mainly informational, not political. He stated that the idea for most of these brochures evolved in 1971 before aging activities at CRP materialized. He said he made no attempt to stagger distribution of brochures for political benefit although he felt it would be advantageous if periodic distribution eventuated. He conceded that others in the White House and CRP may have supported the preparation of the brochures mainly for political reasons but emphasized that this was not his chief motivation. He stated that his memorandums regarding these publications often sound in political terms because he was trying to convince others to support this project.<sup>31</sup>

These comments by Evans should be compared with the remarks in a May 23, 1972, "Confidential-eyes-only" memorandum written by him to Todd and others on the subject "Government Brochures":<sup>32</sup>

I have been informed of disgruntlement expressed at this morning's breakfast concerning the development of government "aging" brochures. *So that we will be united in our efforts to make this a successful program on behalf of the*

<sup>29</sup> 19 Hearings 9212.

<sup>30</sup> Additional documents that indicate a political purpose behind these brochures and show that CRP personnel were participating in the planning for both their preparation and distribution are found at Evans exhibits Nos. 7-16, 18 Hearings 8563-75.

<sup>31</sup> See 18 Hearings 8463-65, 8467-68, 8471-74, 8478-79, 8484-85.

<sup>32</sup> Exhibit No. 41, 19 Hearings 9217.

*President*, I would like to take your time to review the history regarding the development of these brochures.

In late February, Chuck Colson and I decided that the Departments and Agencies involved with "aging" were not letting older voters know, as well as they should or could, what was being done *by the President* on their behalf. One of the vehicles we decided to utilize to overcome this was the development of a series of pamphlets for mass distribution. [Emphasis added.]

The record contains a number of other documents authored by Evans indicating political motivations behind these brochures. While these are collected at Evans exhibit Nos. 7-16,<sup>33</sup> a few illustrations are useful here. Thus, in response to Todd's requests of July 14 and 24, 1972, as to a schedule for production and publication of certain brochures, Evans responded on July 24 with a detailed schedule indicating when each of the brochures then under consideration would be mailed. And on July 27 he sent Malek (then at CRP) a memorandum that read:

Attached is the first government aging brochure to come off the printing press. It still has a slight bureaucratic flavor to it, but I think it gets across the President's concern as well as emphasizes his help in solving the problems of older persons.

The original mailing will distribute 950,000 of these brochures. This will leave us 550,000 remaining brochures for distribution to Senators and Congressmen, *field organizations*, and other groups we may want to reach.

We will be sending out seven additional brochures at a rate of approximately one every two weeks, and I will forward these to you as they come off the press. [Emphasis added.]<sup>34</sup>

Evans explained his memorandums stating that distribution of the brochures would be staggered for maximum impact with the assertion that, since it appeared the brochures would inadvertently be finalized at different times, he told those interested they would be produced at intervals to reduce the pressure from persons concerned with political impact.<sup>35</sup>

Evans also reported to Colson on these brochures as reflected in a June 30, 1972, "Weekly Staff Report".<sup>36</sup> Colson wrote "Excellent" by Evans account of the progress on these publications.

Colson, however, apparently became concerned about the political nature of the brochures. An unsigned memorandum to Malek dated August 3 states in part:

\* \* \* Danny called this a.m. and said that Evans told him at breakfast today that "Colson is having second thoughts (cold feet) about the seven additional brochures." Apparently Volpe called Colson and said DOT didn't want to do

<sup>33</sup> 18 *Hearings* 8563-75.

<sup>34</sup> Evans exhibit No. 15, 18 *Hearings* 8574. The term "field organizations" refers to various CRP operations. (18 *Hearings* 8473) Malek, on top of this document, wrote in hand: "Bud—This is really great work and should have major impact. I'll look forward to seeing the additional brochures. Fred"

<sup>35</sup> 18 *Hearings* 8472-73.

<sup>36</sup> Malek exhibit No. 29, 18 *Hearings* 8427.

a brochure, too political w/ a quote from the P on the cover, etc.—and this must have gotten Colson thinking.

Danny is quite alarmed—and just wanted you to be aware of the above in case he makes a desperate plea to you to put in a strong call to Colson to get him to back off.<sup>37</sup>

It appears that DOT did not produce a brochure but the other six pamphlets involved in this note—those from HUD, DOA, DOL, Action, OEO and VA—were prepared and distributed.<sup>38</sup>

Evans earlier had entertained doubts concerning Government production of brochures that were too political in nature. Exhibit No. 39<sup>39</sup> is a March 16, 1972, "Confidential" memorandum from Evans to Todd entitled "Older American Pamphlets" which sets out various options for the preparation of a brochure entitled "The President Speaks To Older Americans \* \* \* Again," which was to consist entirely of quotations from and photographs of the President.<sup>40</sup> Evans recognized in this memorandum that preparation of a political pamphlet by GPO could result in a charge that "the Republicans got the GPO to do its campaign literature." He also noted that the purchase of a Government pamphlet for use by the campaign organization "would have to be made through some dummy organization" to avoid the contention that the pamphlet was "political."

#### *b. Other Uses of Government Funds*

The Evans to Colson "Weekly Staff Report" referenced above<sup>41</sup> contains other examples of proposed expenditures of Federal funds for what appear to be primarily campaign purposes. At page 2 Evans wrote:

It appears that HEW has agreed to produce 60 copies of the Richardson, Flemming, Rocha TV program taping. This will then be distributed simultaneously to the top TV stations in all of our key states. It is a very political show which stresses time and time again the fantastic things the President has done for older people, which is why the need for simultaneous distribution. This should be shown in late July or early August. In any event, it will be shown before the President is nominated. [Emphasis added.]

There is a handwritten "good" by this entry written by Colson.<sup>42</sup> This document also comments that, with Malek's help, an individual, paid by HEW, would be "brought on board to act as [Arthur] Flemming's scheduling-advanceman from now until the election." An earlier memorandum from Evans to Malek<sup>43</sup> indicates that this individual

<sup>37</sup> Evans exhibit No. 17, 18 *Hearings* 8577.

<sup>38</sup> 18 *Hearings* 8475-76.

<sup>39</sup> 19 *Hearings* 9207.

<sup>40</sup> This brochure was prepared by HEW but was never printed. An earlier pamphlet of the same nature entitled "The President Speaks To Older Americans" was printed and mailed in 1971. (Evans exhibit No. 20, 18 *Hearings* 8585). The following exchange occurred with Mr. Evans regarding these two documents:

Hamilton: Neither one of these has a great deal of informational value. In other words they don't just tell you about programs.

Evans: No, but they say that the President is going to do something on behalf of older people for programs. They say that there is concern at the highest level of the Federal Government on their behalf. I would think that would be something that older people would want to know about, 18 *Hearings* 8485.

<sup>41</sup> Malek exhibit No. 29, 18 *Hearings* 8427.

<sup>42</sup> According to both Todd and Evans, the Richard/Flemming/Rocha tape was made but was of such poor quality it was never used. See e.g., 18 *Hearings* 8478-79.

<sup>43</sup> Evans exhibit No. 18, 18 *hearings* 8578.

was hired as a "Consultant at HEW" and suggests that he maintain close ties with the "Tour Office at the Re-election Committee."

## 2. THE FEDERATION OF EXPERIENCED AMERICANS

Particularly significant are the administration's activities concerning the Federation of Experienced Americans. This organization, which was created on March 29, 1972, on White House initiative,<sup>44</sup> was the recipient in 1972 of two major Federal awards:

1. A DOL contract for \$1,540,000 for services from June 30, 1972, to January 31, 1974, to train and provide work for 350 poor, elderly persons.

2. An OEO grant of \$399,839 for the period November 1, 1972, to February 28, 1974, for developing new methods to overcome the special problems of the Spanish-speaking elderly poor.

The GAO, concerning these two awards, has now concluded that:

The grant and contract awards were processed outside normal procedures. Officials of Labor and OEO said that both the grant and the contract had substantial White House backing.<sup>45</sup>

As to the Labor Department contract, the GAO report (p. 13)<sup>46</sup> contained the following statement:

The former Assistant Secretary [Malcolm R. Lovell, Jr.] advised us that the White House took an active role in directing the Labor Department as to how the expansion moneys were to be spent.<sup>47</sup> The White House staff member involved was identified as L. J. Evans, Jr. According to the former Assistant Secretary, the White House wanted the \$13 million in expansion moneys to go to organizations considered friendly to the administration. Labor's initial allocation plan did not satisfy this requirement and, according to the former Assistant Secretary, Mr. Evans and the former executive assistant [to the Assistant Secretary—Brad Reardon] worked out a compromise plan which called for awarding a \$1 million contract to an organization to be selected by the White House. This occurred in February 1972.

The GAO report continues (p. 13):

The former executive assistant told us the White House wanted Labor to cut back and/or terminate funding for two

<sup>44</sup> 18 *Hearings* 8455-8456. Evans had prior association with one of FEA's directors. (18 *Hearings* 8448.)

<sup>45</sup> Report to the Special Committee on Aging and the Subcommittee on Aging, Committee on Labor and Public Welfare, U.S. Senate, May 13, 1974, p. 1 (Evans exhibit No. 3, 18 *Hearings* 8489). As Evans exhibit 1 (an Aug. 31, 1972 memorandum from Evans to Robert Davison found at 18 *Hearings* 8487) indicates, an attempt was also made by the White House to achieve HEW-AOA funding for FEA. AOA, however, refused to fund this organization apparently because it considered the project—which was a public information program—too "political" (18 *Hearings* 8462). In fact, Evans' memorandum to Davison emphasized that the project "could be a highly effective tool between now and November 7." A Sept. 11, 1972, "Confidential" memorandum from Todd to Malek indicates that Secretary Richardson's office was also concerned with the "legality" of the proposed contract (which was for \$750,000). This memorandum states that the proposal "is highly unusual and the expenditure is not justified." See exhibit 45, 19 *Hearings* 9235.

<sup>46</sup> Evans exhibit 3, 18 *Hearings* 8489.

<sup>47</sup> In November 1971, the President personally announced that the funds for "Operation Mainstream," a program to train and place elderly Americans, would be doubled from \$13 to \$26 million.



of the Operation Mainstream national contractors—the National Council on the Aging and the National Council of Senior Citizens.

Funding to these two contractors, considered “enemies” of the White House, was not terminated by DOL, even though the record shows that on February 28, 1972, they were given substantially less funding than the amounts originally recommended on December 18, 1971, by Robert J. Brown, Associate Manpower Administrator for the U.S. Training and Employment Service.<sup>48</sup> However, the White House sponsored FEA—which was not incorporated until March 29, 1972—did receive a \$1 million plus contract to begin on June 30, 1972.<sup>49</sup>

The GAO also found White House involvement concerning the OEO grant. Its report reads in pertinent part:

... An OEO official advised us that a White House staff member, L. J. Evans, Jr., directed OEO to fund the proposal from FEA which was for a major project concerning elderly Spanish-speaking people.

OEO officials told us that Mr. Evans also instructed OEO to limit its forthcoming contract extension with the National Council on the Aging and the National Council of Senior be expected to award a grant or contract to FEA to provide a full range of professional training and technical assistance for OEO aging programs that had been provided by the National Council on the Aging for many years with funds from OEO and other agencies. (p. 15)

\* \* \* \* \*

The executive assistant told us the FEA proposal was first brought to his attention by the OEO Deputy Director and that he met FEA's president at the initial meeting at Mr. Evans' office. He said that, after OEO received the proposal, Mr. Evans telephoned him to express his support for FEA and then had frequent contact with him until the grant was awarded . . . (p. 17).

A memorandum to the record dated November 17, 1972, by Irven M. Eitrem, Chief, older persons programs, Office of Operations, OEO,<sup>50</sup> sets out at length his view of the circumstances surrounding the FEA award:

All of the circumstances surrounding the processing and awarding of the above grant have been so irregular that I am taking this means to record and document some of those circumstances to protect myself and perhaps some other people within the agency in the event of possible future embarrassing disclosures.

I was informed by a staff member of the Office of Program Review in the early part of September that:

1. The agency had been ordered by a junior White House Staff member to fund a proposal from the Federation of Experienced Americans (an outfit of which I had never

<sup>48</sup> Exhibit 42, 19 *Hearings* 9224 (the Brown Memorandum) and exhibit 43, 19 *Hearings* 9231 (a DOL directive of Feb. 28, 1972) show that Brown recommended \$3.4 million for NCSL, which received \$1.8 million, and \$1.1 million for NCOA, which received \$0.7 million.

<sup>49</sup> A memorandum dated June 15, 1972, prepared by Fred E. Romero, Acting Director, Office of Training and Employment Opportunities, that details the history of the approval of this contract is found at exhibit 44, 19 *Hearings* 9232.

<sup>50</sup> Evans exhibit No. 4, 18 *Hearings* 8530.

heard despite my intimate familiarity with all recognized national organizations in the aging field) to conduct a major project concerned with elderly Spanish-Speaking people.

2. That the same White House staff member had instructed OEO to limit its forthcoming contract extension (effective Sept. 24) with the National Council on the Aging to a six-month period after which we would be expected to award a grant or contract to the Federation of Experienced Americans to provide the full range of professional training and technical assistance for our aging programs that have been provided by NCOA, over a period of years.

\* \* \* \* \*

Late on the afternoon of October 30, I was given a copy of a letter from [David] Brody [President of FEA] dated October 20 which contained some modifications of the work plan and a loosely constructed budget amounting to a few dollars under \$400,000. I was told the grant must be completely processed and signed by the end of the following day, October 31 \* \* \*. I was informed that the work program and budget were to be accepted as presented with no further opportunity for negotiating work or budget provisions.

At a small briefing session on the morning of October 31, conducted in an atmosphere of conspiracy and attended by Brody, we were told that the normal agency requirement for Review Board approval had been waived, that normal approval of the Mayor of Washington and certain governors would be handled informally and perhaps by telephone and that standard procedures for announcing the grant were to be by-passed at least for the time being.

\* \* \* \* \*

In summary, I have the following reservations about this grant:

1. I consider the grantee to be totally unqualified to do the job.

2. I think the grant can produce nothing that is not already well researched and tested. It is a weak, poorly designed plan and quite inappropriate for the use of sec. 252 funds.

3. The budget of \$399,839 is grossly excessive. A planning grant of this nature should not exceed \$75,000 to \$90,000.

4. The urgency and secrecy with which the grant was pushed through were highly irregular. Never in my long experience in the Federal Government have I experienced anything approaching the impropriety of this grant transaction.

5. I sense that I have been "used" as a professional program specialist and titular head of OEO's Older Persons Programs and as a veteran civil servant to give this grant some semblance of legitimacy and suspect that my professional reputation may be damaged as a result.

6. I am appalled by the remaining possibility that we may

have to award a grant or contract to FEA for the highly complex and sophisticated professional T. & T.A. services needed by our aging program grantees. FEA does not have and cannot within a period of several years if ever acquire an acceptable degree of competence to perform these functions. I am convinced this course would be utterly destructive to our aging programs. An award to FEA for this purpose would offend the entire aging constituency in the country, knowledgeable members of both parties in the Congress, and our own CAAs and SCS programs. No service at all would be preferable to a contract with FEA both from the programmatic and political standpoints.

It appears that Dan Todd was also concerned about the White House sponsorship of FEA. In a handwritten memorandum to Malek<sup>51</sup>—apparently prepared after the Watergate break-in, June 17, 1972, but before June 30, 1972—Todd stated:

The Federation of Experienced Americans has become a matter of great concern to those of us working the elderly.

I have done as much leg work as is possible from my position and believe the matter now deserves fast attention from higher up:

1. I anticipate an extremely unfavorable reaction among aging organizations when this group begins to move—such that it could totally undermine the President's credibility with OA's and cost considerable votes.

2. Involvement of White House personnel in questionable activities involving a million dollars of USG funds funneled through dubious outsiders could make the Watergate episode look tiny—this has every potential of a major scandal, if not brought under control.

3. ASF wants to talk directly with Secretary Hodgeson as DOL funds are involved—once he does this, I'm afraid the whole thing will be public.

All that I have are allegations—nothing that would stand up in court, but this will be aimed at the press where proof isn't needed—particularly following ITT and Watergate.

I urge your attention to this matter. I've done all I can from my shop. If there is any possibility, I would recommend that the grant be canceled.

In hand on this document Malek wrote: "Discuss w/Colson." "What does Evans say to all this?" Todd, in a staff interview, stated that Malek told him Colson had advised that FEA was a legitimate organization. Todd, however, continued to be disturbed by the FEA matter as demonstrated by memorandums from him to Malek on this subject on September 11 and November 6, 1972.<sup>52</sup>

<sup>51</sup> Exhibit No. 46, 19 *Hearings* 9239.

<sup>52</sup> Exhibit No. 45, 19 *Hearings* 9235; exhibit No. 47, 19 *Hearings* 9241. The September 11 memorandum claims that a report by Evans on FEA

overlooks the potential liabilities (siphoning off competitive funds from legitimate established organizations with which we have made great progress over the last 18 months; possible tracing of the operation to the White House, which in light of the Watergate and ITT affairs can't help our image much; questionable legal status of the grants themselves which even Bud admits to; difficult public posture if we are forced to defend the FEA and the questionable backgrounds and relationships of the people involved; outright cancelling of existing grants and contracts which can and will only be interpreted as politically motivated, etc.).

The June 30 "Weekly Staff Report" to Colson from Evans also reflects Todd's concern and reveals a White House purpose to injure antiadministration organizations receiving Federal funding:

I met with Malek concerning the new aging organization, and *he was very impressed and very cooperative in getting his guys to move out in assuring us funding at our foe's expense.* However, after having chatted with Todd, he raised cries of alarm that such an organization would hurt us politically because we would cut funds to Democratic groups, thereby leading them to criticize us. As you are well aware, groups like NCSC are going to criticize us anyway. Unfortunately, while I told Todd about the organization in confidence, he immediately told Flemming, who was particularly upset and called Malek. Malek seems to understand the value of the organization, and is still working with us, but I have had to do some shoring operations with Flemming. I don't think this requires any action on your part but you should be aware of it. [Emphasis added.]<sup>53</sup>

Colson wrote in hand by this entry: "Keep Malek on board."

Mr. Evans confirmed in his testimony that he was involved to some degree in the processes leading to the DOL and OEO awards. He denied, however, that he directed either DOL or OEO to fund FEA. While admitting that he expressed his view that funding would be desirable, Evans claimed he lacked the power to direct either institution to make an award. He also denied that he attempted to induce DOL and OEO to terminate or cut back existing funding to the National Council on Aging or the National Council of Senior Citizens, but did concede that he endeavored to limit any additional funding they might receive.<sup>54</sup>

GAO has conducted a programmatic review of FEA's DOL contract. It concluded that, in significant respects, FEA's operations were ineffective, deficient, or in violation of its DOL contract. GAO also performed a financial review of FEA's activities regarding both the DOL contract and the OEO grant. It concluded that FEA's accounting system and related internal controls were inadequate. As a result of these deficiencies, GAO questioned expenditures of approximately \$184,000 under the DOL contract and \$30,000 under the OEO grant. Both DOL and OEO have concluded that it would not be in the best interest of the Government to refund FEA's present programs.<sup>55</sup>

<sup>53</sup> A handwritten document found in Malek's CRP files, apparently written on June 17, 1972, entitled "Bud Evans—Aging Groups" (exhibit 45, 19 *Hearings* 9234) declares that one "Purpose" of FEA was to "Soak up money now going to Democratic Organizations (Nat'l Council on Aging; National Council of Sr. Citizens; and National Farmers Union)".

<sup>54</sup> See 18 *Hearings* 8441-42, 8444, 8447-48, 8451-52.

<sup>55</sup> See Evans exhibit No. 3, 18 *Hearings* 8489. Exhibit 45, 19 *Hearings* 9234, suggests that White House and campaign officials were interested in FEA's promotion because it could "serve political interests" even though it was "tax exempt" having convinced IRS that it was nonpartisan. In this regard certain facts are relevant. Before the November 1972 election, FEA, with a \$5,000 "contribution" from 3M Co., prepared five radio spots advertising administration programs that were favorable to the President. These spots were sent to selected radio stations in fourteen states considered crucial to the President's reelection. (See 18 *Hearings* 8445-6 and Evans exhibit No. 5, 18 *Hearings* 8533). (The committee has no evidence that the 3M gift was intended to be a political contribution.) Copies of these spots were transmitted to Evans at the White House before they were sent to the selected stations (18 *Hearings* 8446, 8461). Todd informed the Committee that, during the campaign, Evans requested that a brochure entitled "The President Cares" be delivered to FEA for distribution. Todd says he forbade this activity. Exhibit 46, 19 *Hearings* 9239, may reflect his decision in this regard. Evans, however, denied he made this request, suggesting instead that it was Todd's idea that FEA distribute this material and that he (Evans) discouraged it. (18 *Hearings* 8450.)

## G. OTHER RELATED ACTIVITIES

## 1. CONDUCT AT THE VETERANS' ADMINISTRATION

The Select Committee is in receipt of information indicating that in late 1971 and 1972 efforts were taken to politicize the Veterans' Administration for purposes of the President's reelection. This information, which has been verified in all significant respects by the Select Committee, was first supplied to the committee by Senator Alan Cranston, chairman of the Subcommittee on Health and Hospitals of the Committee on Veterans' Affairs. A complete report on the subcommittee's investigation is found at exhibit No. 48.<sup>56</sup>

It appears that in late 1971 Glenn C. Wallace, then Special Assistant to the Administrator, solicited \$100 contributions for the President's election campaign from VA employees on Federal facilities. The contributions were in connection with a \$1,000-a-plate dinner held to pay tribute to the President. A contribution of \$100 gave the contributor the chance to draw for one of the two tickets to the dinner that, besides the ticket reserved for the Administrator, were available to VA personnel. The evidence collected by the Cranston subcommittee also indicates that the Administrator, Donald Johnson, held a meeting in early 1972 of top VA officials where he indicated to those present that key officials in the Agency would be expected to lend their full support to the reelection effort, including participation in campaign activities, and that the affairs of the Agency, until the election, would be conducted with partisan considerations in mind.

Documents obtained by the Select Committee indicate that the VA was, to some degree, politicized during the 1972 campaign. Exhibit No. 49<sup>57</sup> is an undated document from CRP files concerning "Campaign Plans for Veterans' Leaders" apparently prepared by or for the Veterans Committee To Re-Elect the President. This document (at p. 20), under the heading "Administration Initiatives and Activities," states:

Veterans' Administration. The VA is the point of contact for all civilian veterans who utilize any government veteran benefits and has received favorable responses from Vietnam-era veterans for their programs to assist returning veterans in recent years. Because of these factors the VA will be the primary agency used in the governmental effort to win the support of veterans. The VA Administrator and designated officials within his agency will be responsible for executing the VA communications activities presented in the Communications Plan. The VA will develop program activities in the medical and education areas and coordinate with labor and the Presidential advisory group on employment activities to focus attention on governmental initiatives to aid the veteran. The VA will review major construction announcements, grants, opening of new facilities, and legislative actions and coordinate communication plans for these items with the Committee.<sup>58</sup> The VA will recommend program initiatives and action on special veterans issues and plan these activities with the Committee. (*See also*, at pp. 21-3.)

<sup>56</sup> 19 *Hearings* 9242.

<sup>57</sup> 19 *Hearings* 9248.

<sup>58</sup> "Committee" apparently refers to the Veterans Committee to Re-elect the President.

Exhibit No. 50<sup>59</sup> is an undated "Final Report" for the CRP Veterans Division found in CRP files. At page 4 it states:

The campaign staff's effectiveness was significantly enhanced by its close liaison with the Veterans' Administration and coordination of campaign activity with the agency. Frequent contact and planning with the Administrator of the VA to place spokesmen and start action programs made possible a positive veterans program throughout the campaign.<sup>59a</sup>

## 2. THE SURROGATE PROGRAM ADVANCE SCHOOL

The evidence shows that in early January 1972, an "advance school" in connection with the surrogate candidate program was held in the Executive Office Building under the direction of Bart Porter, head of the CRP surrogate program. The 50-75 attendees were mainly "Schedule C" Government employees from various departments and agencies. "Schedule C" employees are subject to the Hatch Act which forbids certain Government employees from participating in political campaigns. (See the discussion in section VIII below.)

There is evidence that the purpose of the advance school was to train these employees for political missions. The advance manual for the surrogate program,<sup>60</sup> which was distributed at the school, states at page 4:

... [Y]ou should never lose sight of the political purpose of the trip and the fact that the actual events are in many cases only a vehicle for a more important purpose—namely exposure of the Administration's views to aid the President's re-election.

The Select Committee has received evidence regarding several instances where "Hatched" Government employees advanced for or accompanied surrogates on political trips. It is significant that FCRP paid all bills for surrogates and their aides on campaign trips thus underlining the political nature of the events in which "Hatched" Government employees were involved. However, according to Jon Foust who, on April 15, 1972, joined CRP as chief of the advance team, advances handled by his office after that date were only performed by CRP employees or persons in private life.

## 3. ACTIVITIES RE MILITARY VOTERS

Exhibit No. 52<sup>61</sup> is a July 12, 1972, "Administratively Confidential" memorandum from John Grinalds, then a major in the U.S. Marine Corps and a White House fellow, to Frederick Malek concerning military voters, sets out a basic strategy for maximizing the President's support within that constituency. Attached to that memorandum is a "Recommended Action Plan For Career Military Voter Group"; the following entry appears in the plan:

*Action Step No. 4*—Surrogate speakers on military bases—DOD officials, and U.S. Congressmen.

<sup>59</sup> 19 Hearings 9288.

<sup>59a</sup> Other evidence received by the Select Committee suggests that, largely for reelection purposes, mobile vans owned by the VA were sent into ghetto areas to dispense information regarding Government benefits available to Vietnam veterans and the President's commitment to the various programs involved.

<sup>60</sup> Exhibit No. 51, 19 Hearings 9306.

<sup>61</sup> 19 Hearings 9332.

*Purpose.*—To congratulate achievements of career military officers and NCO's on Vietnamization success and highlight President Nixon's leadership in process.

*Responsible organization.*—Committee (McAdoo) in coordination with the Executive Branch (Colson) and Hill party leadership.<sup>62</sup>

*Concept of Execution.*—Committee will select most populous bases; then set up schedule with Defense for their officials and U.S. Congressmen from the respective states to visit the bases in Sept./Oct. and tell the career force (who served in Vietnam) about how the President and the country appreciate their efforts and sacrifices in bringing about Vietnamization. *Strong highlight on President Nixon. Cost should be nil since it could be charged off as official business.* [Emphasis added.]

Malek indicated his approval of this proposal on the document but added the following comment in hand: "But discuss with Porter first." As noted, Bart Porter was in charge of CRP's surrogate program. Mr. Richard McAdoo, who is referred to in this document, has informed the select committee that no surrogate speakers were actually sent to military bases.

## VI. RESISTANCE IN THE BUREAUCRACY TO THE RESPONSIVENESS CONCEPT

As the previous section demonstrates, the "results" of the responsiveness program were many and varied. But the successes of the program were reduced because there was considerable resistance in the Federal establishment to bending the system to fit reelection purposes. Without attempting to be exhaustive, the following examples give a flavor of the recalcitrance of some Federal officials to requests made of them by White House and campaign officials.

### A. THE FAILURE OF THE DEPARTMENTS AND AGENCIES TO SUBMIT RESPONSIVENESS PLANS

The basic document presenting the responsiveness concept—the Malek to Haldeman memorandum of March 17, 1972,<sup>63</sup>—stated that the departments would be required to submit plans to the White House outlining the ways in which each department could respond to reelection needs. Accordingly, the department and agency heads, in their briefings with Malek and members of his staff, were instructed to prepare and present such plans. The select committee has been unable to establish that any formalized plans of this nature were actually submitted to the White House. In fact, it has received evidence that the White House did not receive a single written plan from a department or agency.

The experience at the Labor Department is instructive. The task of formulating Labor's plan was given by Secretary James Hodgson to Laurence Silberman, then Under Secretary of Labor, now the Deputy Attorney General. After meeting with Malek, Mr. Silberman requested

<sup>62</sup> The "Committee" referred to is CRP.

<sup>63</sup> Malek exhibit No. 4, 18 *Hearings* 8311.

that various assistant secretaries and other high Labor officials submit to him their proposals as to how their operations could contribute to the President's reelection. Various plans were received, some of which are collected at exhibit No. 14<sup>64</sup> along with certain weekly reports submitted to Silberman's office respecting activity taken to support the campaign. But no comprehensive Labor plan was drafted for submission to Malek. Silberman made an attempt but later assigned the task to his assistant, Richard Wise. Wise's unfinished handwritten draft is found at exhibit No. 53.<sup>65</sup> Silberman testified at the confirmation hearing for his present position that he felt "uncomfortable" about submitting an election plan to Malek and thus decided not to do so.<sup>66</sup>

Nonetheless, the memorandums collected at exhibit No. 14 are instructive as to the potential for abuse that underlay the responsiveness program. A June 19, 1972, "Memorandum for the Under Secretary" from Malcom R. Lovell, Jr., the Assistant Secretary for Manpower, details how many millions of dollars (up to \$185 million) from Manpower Training Services and EEA money "can potentially be utilized for the purposes we discussed." The memorandum continues: "As we develop plans for the allocation of the discretionary funds, I will coordinate closely with you in order to get maximum beneficial utilization of these funds." However, both Mr. Silberman and Mr. Lovell have stated that the proposal for using Labor funds for the purposes referenced in this memorandum was never implemented.

A June 14, 1972, "Memorandum to the Under Secretary" from George C. Guenther, Assistant Secretary for the Occupational Safety and Health Administration, also contains several interesting statements:

1. Guenther, under the heading "Action", stated that, during the campaign period:

While promulgation and modification activity must continue, no highly controversial standards (that is, cotton dust, etc.) will be proposed by OSHA or by NIOSH.<sup>67</sup> A thorough review with NIOSH indicates that while some criteria documents, such as on noise will be transmitted to us during this period neither the contents of these documents nor our handling of them here will generate any substantial controversy.

While the activities of the Standards Advisory Committee on Agriculture will commence in July, the committee will concentrate on priorities and long-range planning, rather than on specific standards setting, during this period. Other standards advisory committees may be proposed during this period but again their activities will be low keyed.

Mr. Silberman stated to the Select Committee that he did not instruct Mr. Guenther to discontinue the apparent plan set forth in this paragraph.

2. Under the heading "Personnel", Guenther wrote:

We are drafting an outline of OSHA's recruiting and hiring plan for the next 6 months. Subject to your approval,

<sup>64</sup> 19 *Hearings* 8797.

<sup>65</sup> 19 *Hearings* 9338.

<sup>66</sup> Hearings before the Committee on the Judiciary on the Nomination of Lawrence H. Silberman, Feb. 19, 20, 1974, p. 13.

<sup>67</sup> NIOSH is an acronym for National Institute for Occupational Safety and Health.



it is our intention to provide copies of this detailed plan to the Republican National Committee and the Committee to Re-Elect the President. We can then consider applicants they propose.

The original document contains a "No" by this paragraph written by Mr. Wise to indicate his and Silberman's disapproval of this proposal.

3. Finally Guenther stated:

While I have discussed with Lee Nunn the great potential of OSHA as a sales point for fund raising and general support by employers, I do not believe the potential of this appeal is fully recognized. Your suggestions as to how to promote the advantages of four more years of properly managed OSHA for use in the campaign would be appreciated.

No action was taken respecting this paragraph.

#### B. DOL MIGRANT LABOR GRANT

One "success" announced by Malek to Haldeman in the June 7, 1972 progress report <sup>68</sup> was actually resolved contrary to Malek's claim due to intransigence to White House pressure. This document contained the following statement:

Senator Tower's office requested that the \$2.2 million migrant worker program grant be given to the pro-Administration Lower Rio Grande Valley Development Council as opposed to the consortium of OEO/CAP agencies. DOL has already announced that the OEO groups have the best proposal. If the Development Council were to receive the grant, there would be a significant plus for the Administration, as OEO's negative voice would be silenced, and the Council's positive feelings toward the administration could be stressed. DOL has told Tower that the grant will be awarded to Tower's choice. Tower will confirm his decision this week.

Summarizing this "result", Malek wrote:

The Department of Labor was asked to award a \$2.2 million migrant labor program contract in Texas to a pro-Administration group. Labor had already publicly committed itself to a consortium of anti-Administration OEO/CAP agencies. Labor has reversed its stand.

But Labor Department records reveal that the OEO/CAP agencies were eventually funded—the project was approved on October 22, 1972—albeit at a lower rate of \$1.7 million. While White House pressure caused a delay in funding, the grant did go to the group that Labor deemed superior.

#### C. APPROACH TO HUD

Richard Goldstein in 1972 was a special assistant to Richard Van Dusen, then Under Secretary of HUD. Mr. Goldstein has submitted an affidavit to the committee <sup>69</sup> that includes the following statement:

<sup>68</sup> Malek exhibit No. 16, 18 *Hearings* 8385.

<sup>69</sup> Malek exhibit No. 21, 18 *Hearings* 8399.

Sometime in the summer of 1972, after Mr. Malek had left the White House staff to join the Committee To Reelect the President, I received a telephone call from Mr. Davidson in the course of which he asked that the Department set aside approximately \$2-3 million that could be used in the State of California as part of the Responsiveness Program. Under Mr. Davidson's proposal, an individual whom the White House would designate, but who would not be an employee of the Department of Housing and Urban Development with an appropriate delegation of authority from the Secretary, would make the decision as to how those monies were to be committed, i.e., which cities and towns in California would receive those funds. I told Mr. Davidson that in my judgment such a program did not make sense; that it sounded illegal and certainly improper and that I felt confident that HUD would not participate in such a program. I further told Mr. Davidson that if he wanted a decision from a higher authority I would take the matter up with Under Secretary Van Dusen. Mr. Davidson suggested that I do that. At the conclusion of my conversation with Mr. Davidson, I spoke with Under Secretary Van Dusen about this matter. He agreed and told me that HUD would in no way participate in such a program.

Mr. Van Dusen has confirmed that he had the conversation with Goldstein reported in the latter's affidavit. Mr. Davison stated to the committee's staff that he does not recall making the specific request set forth in the Goldstein affidavit.

#### D. DIFFICULTIES WITH OMBE

John L. Jenkins served as Director of the Office of Minority Business Enterprises (OMBE) at the Department of Commerce from August 1971 until March 1973. As indicated above, OMBE was a substantial source of Federal funding for minority businessmen. Several memorandums reveal the dissatisfaction of White House and campaign officials respecting Jenkins' lack of responsiveness to campaign needs.

On March 3, 1972, Malek forwarded a memorandum to Robert Brown, William Marumoto, Paul Jones, and Alex Armendariz who were leaders in the campaign effort regarding black and Spanish-speaking voters.<sup>70</sup> This memorandum stated:

Each of you has expressed concern to me recently about the use of OMBE grants. This, obviously, represents an excellent opportunity to make a contribution and gain headway in the Black and Spanish-Speaking areas.

I have discussed this situation with Ken Cole, and we are in agreement on the importance of this program to our efforts. However, if we are to be at all effective in the OMBE area, we must ensure that the White House speaks with a single voice. Ken and I are agreed that that single voice will be John Evans of the Domestic Council staff.

I believe assigning John the complete responsibility in this area can be quite effective and helpful to our efforts. John

<sup>70</sup> 13 Hearings 5542.

has the same objectives that you do, and I am sure you will find him most receptive to your inputs and needs. In this regard, I think it would be helpful if at an early stage you each sat down with John to discuss the Blacks and Spanish-Speaking problems respectively to ensure he is fully apprised of your needs and that a meaningful liaison is established.

Later documents, however, indicate that the Jenkins-OMBE problem was not solved. On April 11, 1972, Jones sent a memorandum to Robert Odle<sup>71</sup> which reported:

We participated in meetings with White House Team members to resolve problems centering around OMBE activities in efforts to assure that maximum benefits flow from this program.

And, on July 21, 1972, Jones sent a memorandum to Malek containing the following entry:<sup>72</sup>

Problem.—The inability, after repeated high level meetings, to get favorable supportive responses from the Office of Minority Business Enterprises remains a continuing obstacle to best use of Administration resources to meet critical needs.

Jenkins testified before the Select Committee in executive session on February 8, 1974. He stated that, from time to time, he received telephone calls regarding grants from Marumoto or Rodriguez concerning pro-administration Spanish-speaking firms and from Brown or Jones as to blacks favorable to the administration.<sup>73</sup> Jenkins testified he would inform the caller that the grants "were in the process" and then would proceed to follow proper procedures as laid down by legislation and regulations. He was aware, however, of the concern that he was not cooperative and of the "rumors that [he] was not directing the money into 'the right hands.'"

Jenkins testified at some length regarding the pressures brought to bear on him and his responses to them:

HERSHMAN. Is it not true, Mr. Jenkins, that pressures came from the White House and the Committee To Re-Elect the President and the pressures took the form of influence centering around various grants and contracts awarded by your office?

JENKINS. I suppose they would term it pressure. They would exert effort towards getting a particular proposal. \*\*\*

HERSHMAN. Did they not make it clear to you that they wanted to see grants and contracts going to firms, minority firms, who were supportive of the administration?

JENKINS. Well, this was made in a statement, and maybe this is where my division with the White House came. We felt that even though this was made in a statement, that they still wanted us to follow the prescribed rules and regulations that had been established by the Congress to award a grant or contract to an individual firm. And that is very well where I probably fell in disfavor, if it was such, at the White House,

<sup>71</sup> Exhibit 54, 19 Hearings 9341.

<sup>72</sup> Exhibit 55, 19 Hearings 9342.

<sup>73</sup> Jenkins executive session, Feb. 8, 1974, pp. 15-16.

because I did not deviate from that particular performance. And we were told that we should be very attentive to those persons and organizations who were favorable to the President. And we took that under consideration within the guidelines of the requirements and criteria.<sup>73a</sup>

When shown memorandums critical of his performance, Jenkins said:

I would say that it was all brought about because of a few small-minded people in the White House who felt that I had not cooperated with what they wanted done.<sup>74</sup>

Jenkins said that he was not previously aware of the March 3 Malek memorandum quoted above relating to the appointment of John Evans as the OMBE contact, but continued:

\* \* \* [S]ince I see the memo I can see some connection, because I was giving everybody a fit over there, and Marumoto would call me, Bob would call me, Norris Sydnor would call me \* \* \* and I probably was not responding like they wanted me to, so \* \* \* it was probably a memo \* \* \* going to Malek, saying, We are not getting the juice out of OMBE that we should be getting out of it. And consequently this memo came out and they appointed John.<sup>75</sup>

Jenkins testified that he finally went to then Department of Commerce Under Secretary James Lynn to complain about the pressures on him. In a meeting attended by Marumoto, Rodriguez, Lynn and Jenkins, Lynn explained "that [Jenkins] had certain rules and regulations and requirements that had to be met and that [he] was moving on all projects that had some viability to them."<sup>76</sup> Lynn stated to the committee that certain White House staffers were impatient with Jenkins but that he (Jenkins) was attempting to carry out his OMBE duties in a responsible manner.

## VII. PURPORTED CANCELLATION OF THE RESPONSIVENESS PROGRAM

Malek moved from the White House to the campaign as deputy director on July 1, 1972. Daniel Kingsley, still at the White House, assumed administrative responsibility for the Responsiveness Program at that time. A progress report from Kingsley to Haldeman (which the Select Committee has not obtained) apparently prompted the official—if not the actual—cancellation of the Responsiveness Program.

The events leading to this cancellation are set forth in an affidavit submitted to the Select Committee by Frank Herringer,<sup>77</sup> a former Malek assistant, now the Administrator of the Urban Mass Transit Authority:

Sometime later (probably during September 1972), a carbon or Xerox copy of a "progress report" on the Responsiveness project, from Kingsley to Haldeman, crossed my desk

<sup>73a</sup> Jenkins executive session, pp. 13-14.

<sup>74</sup> Jenkins executive session, p. 57.

<sup>75</sup> Jenkins executive session, pp. 22-23.

<sup>76</sup> Jenkins executive session, p. 24; see further Malek's testimony at 18 *Hearings* 8268-70.

<sup>77</sup> Malek Exhibit No. 30, 18 *Hearings* 8434.

on its way to Malek. I do not recall any specifics of the report, but I believe it was similar to an earlier "progress report" which was shown to me recently and which is in the [Select] Committee's possession. I scanned the report, or part of it, briefly and I recall that I was generally disturbed by the descriptions in the report of some of the individual actions that supposedly had occurred in the Responsiveness project. While I did not believe that anything inappropriate had actually occurred, I felt that the exaggerated tone of the report (as is equally true in the earlier report) could cause someone not familiar with the general staff practice of exaggerated writing to think that inappropriate activities were being carried on.

I sent the copy of the Progress Report along to Malek, with a suggestion that he recommend to Haldeman that the project (or at least the reports) be discontinued, and possibly with a suggested draft memorandum for Malek to send to Haldeman, if he agreed.

A few days later, Kingsley's secretary collected from my secretary materials in Malek's and my files relating to the early stages of the development of the "Responsiveness" project. As far as I can recall, that was the last I ever heard of the project.

It appears that all responsiveness documents collected by Kingsley were burned or otherwise destroyed because of their "politically sensitive nature."<sup>78</sup> The Select Committee obtained copies of the majority of the responsiveness documents contained in this report from CRP files of Malek and others that were preserved at the National Archives.

Malek essentially confirms the account set forth in the Herringer affidavit. Malek stated to the committee that, after the Watergate affair broke, he felt the campaign should be free of all conduct that might be subject to misinterpretation.<sup>79</sup>

It appears, however, from numerous documents the Select Committee has obtained, that activities of the responsiveness type continued past September until the conclusion of the campaign. Without referencing all available documents, the committee notes a November 2, 1972, confidential memorandum from Alex Armendariz to Kenneth Cole<sup>80</sup> suggesting that La Raza Unida, a Spanish-speaking organization potentially hostile to the President, might remain neutral through the election if some of the Government programs affecting its interests "could be sprung loose within the next few days."<sup>81</sup>

## VIII. DISCUSSION

Throughout its investigation of the activities described in this chapter, the Select Committee was met with the claim that this conduct is politics as usual, that other administrations have similarly employed the resources at their command to insure the incumbent's reelection. Because the Select Committee's investigation was limited by the Senate in S. Res. 60 to the 1972 campaign and election, the committee can-

<sup>78</sup> Malek Exhibit No. 19. See affidavit of John E. Clarke, 18 *Hearings* 8393.

<sup>79</sup> 13 *Hearings* 8284.

<sup>80</sup> Exhibit No. 262-62, 13 *Hearings* 5697.

<sup>81</sup> See further, e.g., Exhibits Nos. 262-58, 262-60, 13 *Hearings* 5686, 5692.

not confirm or refute these charges.<sup>82</sup> But, to some degree, the contention that other administrations have done the same thing misses the point. For, as the discussion that follows demonstrates, certain of the activities described not only appear to contravene the fundamental notion that our Nation's citizens are entitled to equal treatment under the laws, but also raise questions as to the applicability of specific Federal civil and criminal statutes.

It is useful to begin this discussion by referencing the admonition of the Supreme Court in the recent case of *United States Civil Service Commission, et al. v. National Association of Letter Carriers, AFL-CIO, et al.*, 413 U.S. 548, 564-5 (1973).

It seems fundamental in the first place that employees in the Executive Branch of the Government, or those working for any of its agencies, should administer the law in accordance with the will of Congress, rather than in accordance with their own or the will of a political party. They are expected to enforce the law and execute the programs of the Government without bias or favoritism for or against any political party or group or the members thereof \* \* \*

\* \* \* [I]t is not only important that the Government and its employees in fact avoid practicing political justice, but it is also critical that they appear to the public to be avoiding it if confidence in the system of representative Government is not to be eroded to a disastrous extent.

In this case the Supreme Court affirmed the constitutionality of a portion of the Hatch Act, 5 U.S.C. 7324(a)(2), which proscribes certain political activities by most Federal employees.

The Hatch Act, in fact, contains another broad prescription that would seem to prohibit many of the activities described above. Section 7324(a)(1) of title 5 provides that an employee of an executive agency may not "use his official authority or influence for the purpose of interfering with or affecting the result of an election." Violation of this provision can result in dismissal from Federal service. See 5 U.S.C. 7325. While this provision suffers from some vagueness and has never received an authoritative interpretation by the courts, its applicability must nonetheless be considered in determining the propriety of the conduct presented in this chapter.

Moreover, the question is raised whether certain conduct described in this chapter may have amounted to a conspiracy to defraud the United States under 18 U.S.C. 371. The most authoritative definition of this crime appears in the Supreme Court's decision in *Hammer-schmidt v. United States*, 265 U.S. 182, 188 (1923) (Taft, Ch. J.) where the Court said:

To conspire to defraud the United States means primarily to cheat the Government out of property or money, but *it also means to interfere with or obstruct one of its lawful governmental functions by deceit, craft or trickery, or at least by means that are dishonest.* It is not necessary that the

<sup>82</sup> One could, however, speculate with some confidence that no other administration was as victimized by its passion to commit its plans and stratagems for using Federal resources to paper as was the present one. Of interest in this regard is a May 24, 1972, "Confidential Eyes-only" memorandum from L. J. Evans to Malek carrying the prescription "Burn Before Reading" by which Malek wrote "always." Perhaps unfortunately for those involved, many documents unearthed by the committee were not "always" burned, before or after reading.

Government shall be subjected to property or pecuniary loss by the fraud, but *only that its legitimate official action and purpose shall be defeated by misrepresentation, chicane or the overreaching of those charged with carrying out the governmental intention.* [Emphasis added.]

See also, e.g., *Dennis v. United States*, 384 U.S. 855, 861 (1966), where the court observed that section 371 "reaches 'any conspiracy for the purpose of impairing, obstructing or defeating the lawful functions of any department of Government'"; *Hass v. Henkel*, 216 U.S. 462 (1910); *Tyner v. United States*, 23 U.S. App. D.C. (1904).

The evidence accumulated by the Select Committee presents the issues whether those administration and CRP officials who agreed on plans to use Federal resources for political ends were engaged in a conspiracy "to interfere with or obstruct . . . lawful Government functions" and whether "legitimate official action and purpose [was] defeated by . . . the overreaching of those charged with carrying out the governmental intention." It is also relevant that the major documents promulgating responsiveness plans were classified "Confidential," "Extremely Confidential," and/or "Eyes Only" and noted that secrecy in the implementation of the proposal was of paramount necessity in order to avoid adverse publicity. Thus, a question exists whether there was agreement to interfere with the lawful functions of Government by "deceit, craft or trickery or . . . means that are dishonest."

In any event, there are specific Federal criminal and civil statutes that appear applicable to the conduct herein described. And, of course, any agreement to violate a Federal criminal law could also be prosecuted under 18 U.S.C. 371 as a conspiracy to commit an offense against the United States.<sup>83</sup> Certain criminal and civil statute that appear relevant to the activity portrayed in this chapter are now discussed.<sup>84</sup>

1. The evidence suggests that one area of emphasis in the Responsiveness Program was the allotting or rechannelling of Federal money—funds for grants, contracts, loans and subsidies—to target groups and areas in order to enhance the President's reelection chances, and to individual applicants who were supportive of, or would thereafter support, the President.

Section 595 of title 18 makes it illegal for "a person employed in any administrative position by the United States, or by any department or agency thereof, \* \* \* in connection with any activity which is financed in whole or in part by loans or grants by the United States, or any department or agency thereof, [to use] his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President [etc.]" The offense is a misdemeanor and is penalized by a fine of not more than \$1,000 and/or imprisonment of not more than 1 year. (There are, however, no reported cases under this section.)

2. The committee has received evidence raising the possibility that certain individuals were offered Government benefits in exchange for political support or, at the least, political neutrality. Section 600 of

<sup>83</sup> A conspiracy to commit certain civil offenses against the United States would also be prosecutable under this statute. See e.g., *United States v. Hutto*, 256 U.S. 524 (1921); *United States v. Wiesner*, 216 F. 2d 739 (2nd Cir 1954).

<sup>84</sup> No attempt has been made exhaustively to catalogue all possible statutes that may conceivably apply, but the principal provisions that appear pertinent are discussed.

title 18 makes it a misdemeanor punishable by a fine up to \$1,000 and/or imprisonment up to 1 year to promise any Government benefit "or any special consideration in obtaining such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party" in connection with a Federal election.

3. There is evidence that plans were laid for Government officials and others to solicit campaign contributions from minority recipients of Federal grants, loans, and contracts. Moreover, the committee has obtained evidence that these plans were in part consummated. It also appears from Civil Service Commission findings and otherwise that certain Federal employees were solicited for campaign contributions by other Federal employees on Federal facilities. Several provisions of the Federal criminal code are relevant regarding this conduct:

(a) Section 611 of title 18 provides that anyone "entering into a contract with the United States \* \* \* for the rendition of personal services or furnishing any material, supplies, or equipment \* \* \* if payment for performance of such contract or payment for such material, supplies [or] equipment is made in whole or in part from funds appropriated by the Congress \* \* \*" may not "directly or indirectly mak[e] any contribution of money or other thing of value, or promis[e] expressly or implicitly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use." A contribution or promise to contribute is only illegal if made during the time period from the beginning of negotiation on a Government contract to the completion of the contract or the termination of negotiations respecting the contract, whichever is later. It is also illegal to solicit "any such contribution from any such person for any such purpose during any such period." Penalty for violation is a fine of not more than \$5,000 and/or imprisonment for not more than 5 years.

(b) Section 602 makes it criminal for "an official or employee of the United States \* \* \* or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, directly or indirectly [to] solici[t], receiv[e], or [be] in any manner concerned in soliciting or receiving, any \* \* \* contribution for any political purpose whatever, *from any other such \* \* \* person.*" [Emphasis added.] This statute carries a fine of up to \$5,000 and/or imprisonment up to 3 years.

(c) Section 603 makes it illegal for anyone "in any room or building occupied in the discharge of official duties by any person mentioned in section 602 \* \* \* [to] solici[t] or receiv[e] any contribution of money or other thing of value for any political purpose." The penalties are the same as enumerated in section 602.

(d) Section 607 makes it illegal for a Federal employee to give a campaign contribution to another Federal employee. The penalties are the same as in sections 602 and 603.<sup>85</sup>

<sup>85</sup> See also the Hatch Act, 5 U.S.C. 7323, which provides:

"An employee is an Executive agency (except one appointed by the President, by and with the advice and consent of the Senate) may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a thing of value for political purposes. An employee who violates this section shall be removed from the service."



4. The March 17 Malek-to-Haldeman memorandum<sup>86</sup> setting forth the basic precepts of the Responsiveness Program indicates that one of the goals of that program was the shaping of legal and regulatory proceedings to benefit the President's reelection campaign. And in a Malek-to-Haldeman memorandum dated June 7, 1972,<sup>87</sup> Malek appears to claim that, for campaign purposes, his forces achieved successful results respecting EEOC and Labor Department proceedings.

Section 1505 of title 18 provides that "[w]hoever corruptly \* \* \* influences, obstructs, or impedes or endeavors to influence, obstruct or impede the due and proper administration of the law under which [a] proceeding is being had before [a] department or agency of the United States \* \* \* [s]hall be fined not more than \$5,000 or imprisoned not more than 5 years, or both."

5. The evidence indicates that various Federal employees were actively engaged in the President's reelection campaign. It appears that some of these employees were not exempt from the provisions of the Hatch Act, 5 U.S.C. 7324(a)(2), which provides that "[a]n employee in an Executive agency \* \* \* may not \* \* \* take an active part in political management or in political campaigns." Violation of this provision may result in dismissal from office. See 5 U.S.C. 7325.

6. The select committee has received evidence suggesting that White House and campaign officials, acting through special personnel referral units established in various departments and agencies, were engaged in a program to place political supporters of the administration in Government positions regulated by the civil service merit system, that is, competitive service positions. It is unlawful for a department or agency to make determinations on staffing for competitive service positions on the basis of political considerations. For example, section 4.2 of Executive Order No. 10577, which was issued pursuant to 5 U.S.C. 3301, provides that:

No discrimination shall be exercised, threatened, or promised by any person in the executive branch of the Federal Government against or in favor of any employee in the competitive service, or any eligible or applicant for a position in the competitive service because of his \* \* \* political affiliation \* \* \* except as may be authorized or required by law.

Other similar statements of the law are found at section 7.1 of Executive Order No. 10577, section 9.5 of Executive Order No. 11598 and 5 CFR 300.103(c), 330.101.

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The committee rejects the proposition that much of the conduct described in this chapter should be viewed as acceptable political practice. The responsiveness concept involved the diverting of taxpayers' dollars from the primary goal of serving all the people to the political goal of reelecting the President. To condone such activity would display a limited understanding of the basic notion that the only acceptable governmental responsiveness is a responsiveness to the legitimate needs of the American people.

<sup>86</sup> Malek exhibit No. 4, 18 *Hearings* 8311.

<sup>87</sup> Malek exhibit No. 11, 18 *Hearings* 8380.

## IX. RECOMMENDATIONS

**1. Prosecution for violations of the existing criminal statutes, set forth above, insofar as they relate to Federal elections, and the criminal statutory enactments recommended below should be entrusted to the Public Attorney, whose establishment is elsewhere recommended.**

The reasons supporting the committee's recommendation for a permanent Public Attorney are presented elsewhere in this report.

**2. The Federal Elections Commission (elsewhere recommended) should be given authority to investigate and restrain violations of the Federal civil and criminal statutes referred to in this chapter insofar as those violations relate to Federal elections. The Commission should also be empowered to refer evidence of such criminal violations to the Public Attorney.**

The reasons supporting the committee's recommendation for the creation of a Federal Elections Commission are presented elsewhere in this report, as are the specifics concerning the recommended powers of this Commission.

**3. The committee recommends that Congress enact legislation making it a felony to obstruct, impair or pervert a Government function, or attempt to obstruct, impair or pervert a Government function, by defrauding the Government in any manner.**

As indicated above, there is a question whether some of the conduct described in this chapter may have interfered with the lawful functioning of Government. Certain of the endeavors described were pursued in concert. There is, for example, evidence that governmental officials and CRP personnel acted jointly in various attempts to use Federal resources for reelection purposes.

As noted, there is currently in the Federal Code a statute (18 U.S.C. 371) making it unlawful to conspire to defraud the United States. The Supreme Court has ruled that a conspiracy to interfere with the lawful functioning of Government is prosecutable under this provision. The committee's recommendation, which is an elaboration of the suggested provision in section 1301 of S. 1400 (the Department of Justice bill) now pending before the Senate, would make illegal individual conduct that fraudulently interferes with a lawful Government function. This recommendation, coupled with existing 18 U.S.C. 371, should cover completely all future attempts by campaign officials, Government personnel and others to use Federal resources to influence a Federal election in a manner that interferes with lawful Government functioning.

**4. The committee recommends that Congress preserve as part of the United States Code 18 U.S.C. 595, which makes it illegal for a Government official connected with the awarding of Federal grants and loans to use his official authority to effect a Federal election, but recommends that this offense be upgraded to a felony. The committee recommends that 18 U.S.C. 600, which makes illegal the promise of Government benefit for political support, be upgraded to a felony. The committee also recommends that the scope of section 595 be expanded to include misuse of official authority in connection with the dispensing of other Fed-**

**eral funds such as Government contract payments and Federal subsidies.**

The major proposed revisions of the criminal code currently before Congress—S. 1 (the McClellan bill), S. 1400 (the Department of Justice bill), H.R. 10047 (the Brown Commission recommendations)—would either seriously limit the scope of 18 U.S.C. 595 or altogether remove its strictures from the law. This result, in view of the factual findings in this chapter and the necessity of preserving the sanctity of the electoral process, is undesirable. To the contrary, this provision and 18 U.S.C. 600 should be upgraded to felony level better to protect the integrity of Federal elections.

Section 595 as now written does not appear to deal with misconduct by certain Federal officials who have important responsibilities for dispensing Federal funds—for example, those dealing with Government contracts and various Federal subsidies. In view of the evidence uncovered, the scope of the statute should be expanded to cover conduct by these influential Federal officials.

**5. The committee recommends that Congress preserve in the United States Code 18 U.S.C. 611—which proscribes political contributions by or solicitations to Government contractors—and 18 U.S.C. 602—which makes illegal political solicitations by persons receiving Federal compensation, for services rendered, to other such persons—but appropriately amend these provisions to make illegal contributions by or knowing solicitations to (a) any person receiving, during the calendar year a contribution or solicitation is made, other Federal moneys (that is grants, loans, subsidies) in excess of \$5,000, and (b) the principals or dominant shareholders of corporations receiving, during the calendar year a contribution or solicitation is made, SBA 8(a) or OMBE awards or other such Federal funding designed to benefit disadvantaged and minority groups.**

Section 611 only makes illegal contributions by or solicitations to contractors compensated by Federal dollars. It does not cover contributions by or solicitations to other recipients of significant Federal funding, for example, certain grantees and loan recipients. Moreover, the statute by its terms does not seem to cover contributions by or solicitations to principals or dominant stockholders of corporations receiving Federal moneys. Similarly, section 602 only covers solicitations to those receiving Federal compensation for services rendered; it does not condemn solicitations to those receiving Federal funding without returning services, or solicitations to the principals or dominant shareholders in corporations that receive Federal moneys. The evidence before the committee indicates that, respecting minority groups, plans were laid to solicit recipients of grants or loans. Also, there appear to have been particular pressures to contribute on minority businessmen whose corporations were quite dependent on Government business. The law currently prohibits contributions by corporations to Federal elections and we recommended elsewhere that a \$3,000 limit be placed on the amount any individual can contribute to a Presidential campaign. The proposal to prohibit contributions by and knowing solicitations to the principals and dominant shareholders of corporate recipients of SBA 8(a) or OMBE awards, or other Federal funding designed to

benefit disadvantaged and minority groups, adds another protection to persons who are most dependent on Federal funds and thus all the more susceptible to campaign solicitations by Federal candidates or their representatives.

The current major bills to revise the criminal code before Congress—S. 1, S. 1400, H.R. 10047—generally weaken the proscriptions in sections 602 and 611 and lessen the penalties for their violation. In view of the abuses discovered, a weakening of the law in this area seems unwise.

**6. The committee recommends that Congress amend the Hatch Act to place all Justice Department officials—including the Attorney General—under its purview.**

The evidence the Select Committee has gathered indicates that various Federal officials took an active part in the President's 1972 re-election campaign. Some of the officials apparently involved were covered by the Hatch Act, which prohibits certain Federal employees from engaging in political campaigns and political management, but some were not. Some of the Federal officials who engaged in political activities were employed at the Department of Justice, for example, Mr. Mitchell.<sup>88</sup>

Sections 7324(d) of title 5 exempts certain Justice Department officials from Hatch Act coverage. The committee, however, believes that Justice Department officials should administer the Nation's laws totally removed from all political considerations. The committee thus recommends that all Justice Department employees and officials, including the Attorney General, be placed under the Hatch Act.

**7. The committee recommends that the appropriate committees of both Houses of Congress, in accordance with their constitutional responsibilities, maintain a vigilant oversight of the operations of the executive branch in order to prevent abuses of governmental processes to promote success in a Federal election.**

This proposal needs no discussion for an obvious major lesson of Watergate is that vigorous congressional oversight of the executive branch is essential.

<sup>88</sup> In addition to this chapter, see also Chapter 1 of this report regarding the Watergate break-in and its coverup.

## CHAPTER 4

### Campaign Financing

#### INTRODUCTION

One of the principal areas of interest to the Select Committee was the financing of the various Presidential candidacies. As the candidates of their respective parties, President Nixon's and Senator McGovern's campaigns ultimately compiled total expenditures of over \$100 million. The unsuccessful campaigns of others seeking nomination spent millions of dollars more.

The report that follows reviews some of the more significant subjects investigated by the committee, including alleged corporate contributions by 13 corporations (in 12 cases the corporation or one of its officers have pleaded guilty); the relationship between campaign contributions to FCRP and the interest of the contributors in securing ambassadorships; union activity in the campaign; the role of Herbert W. Kalmbach in fundraising; the contribution of Robert Allen, whose funds became the so-called Mexican checks; an incident involving FCRP's National Hispanic Finance Committee; the results of the committee's questionnaires; the corporate-oriented campaign of FCRP; the settlement of campaign debts in the campaign of Senator McGovern; and the receipt of certain cash contributions by the campaign of John V. Lindsay.

The 1972 campaign—particularly that of President Nixon—was, in effect, split into two by the April 7, 1972, effective date of the Federal Election Campaign Act of 1971. Prior to April 7, 1972, contributors could be assured that their contributions would remain confidential. Based on this understanding, large contributions were made, including many in cash<sup>1</sup> and some out of corporate assets. Significantly, almost all of the largest corporate contributions were made before April 7, 1972. Furthermore, one of the results of the fact that a large number

<sup>1</sup> In a few cases, the meaning of the April 7 deadline was in dispute. The case of the "Andreas-Dahlberg" check, dated April 10, 1972, which apparently did not actually reach the hands of FCRP personnel until April 11, was discussed during the committee's public hearings. (2 *Hearings* 575, 699-700). In another case, involving Calvin Kovens, it appears that he gave a check in the amount of \$30,000 to his attorney, former U.S. Senator George Smathers, prior to April 7 for delivery to the campaign. According to Kovens' unsworn testimony given to the committee staff, Smathers delivered the check to Mitchell on or about April 5, 1972, but was advised that the check was improperly made to a payee such as "President Richard Nixon Fund." Mitchell told Smathers, according to Kovens, that a series of checks could be made out to campaign re-election committees or the contribution could be made in cash. Kovens decided to make the contribution in cash and assembled \$30,000. Kovens gave the money to Smathers while the two were driving to the airport on or about April 15, 1972, when Smathers was on his way to Washington. Smathers later told Kovens that he had delivered the money to Mitchell.

In each of these cases, FCRP claimed that the contribution was promised prior to April 7, 1972. Since the definition of a contribution included the promising of a contribution, it was claimed that the contributions were promised prior to April 7, and hence made before April 7. Since they were made before April 7 they were not made after April 7, the agreement ran; therefore they did not have to be reported as a post-April 7 contribution.

of contributions were given in cash was difficulty in tracing the source of the funds.<sup>2</sup>

Although hundreds of persons were interviewed and tens of thousands of documents examined in connection with this phase of the investigation, it was not possible, of course, to investigate fully every allegation or question every contributor of a substantial sum.<sup>3</sup> In its effort, the committee staff was assisted by the Government Accounting Office and its Office of Federal Elections.

Based on the results of its investigations, the committee has made a number of recommendations, emphasizing the importance of citizen participation, disclosure, and accountability.

## I. CORPORATE CONTRIBUTIONS

During the 1972 Presidential campaign, it appears that at least 13 corporations made contributions totaling over \$780,000 in corporate funds. Section 610 of title 18, United States Code, prohibits contributions on the part of corporations and unions.<sup>4</sup> Of these, 12 gave approximately \$749,000 to the President's reelection campaign, which constituted the bul of the illegal corporate contributions.<sup>5</sup>

While there is no evidence that any fundraiser for President Nixon directly solicited a corporate contribution, there is evidence that a number of them either were indifferent to the source of the money or, at the very least, made no effort whatsoever to see to it that the source of the funds was private rather than corporate. In any event, there is no evidence that any fundraiser who was involved in these contribu-

<sup>2</sup> The difficulties in tracing cash contributions can be illustrated by one account received by committee staff in the course of interviewing a substantial number of the larger contributors of cash, including the following account in which, it should be noted, no evidence of illegality was revealed by the investigation. According to interviews with the participants, six officials of Texas Eastern Transmission Corporation of Houston, Texas—George Kirby, President and Chief Executive Officer, Baxter Goodrick, Chairman of the Board, William T. Kendall, Public Affairs Officer, Jack Head, General Counsel, George Brow, Chairman of the Executive Committee, and Thomas Thagard—made donations to a political contribution fund or "pool" at various times and in various amounts over a period of several years. This money was kept in a safe deposit box under the control of Kirby and Kendall and, according to safe deposit box records, Kendall made periodic visits to the box on the average of once or twice a month to deposit or at times withdraw cash. No records were kept of how much each person gave. Early in the Presidential campaign, according to the above individuals, a couple of small contributions were made to Democratic Candidates for President, but in late February or early March the contributors decided to give to the Republican effort. They called Stans' office and made an appointment to deliver the money to FCRP in Washington. When Kendall went to the safe deposit box and counted the money in anticipation of making a contribution, he found approximately \$31,500. He then put \$30,000 in a manila envelope and delivered the money to FCRP.

<sup>3</sup> Because of limitations on staff and other resources, two major allegations as well as many comparatively less well publicized ones were not explored by the Committee—the circumstances surrounding the contribution by Robert L. Vesco to FCRP and the alleged commitment by ITT in connection with the Republican National Convention.

<sup>4</sup> Section 610 reads:

It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section.

Every corporation or labor organization which makes any contribution or expenditure in violation of this section shall be fined not more than \$5,000; and every officer or director of any corporation, or officer of any labor organization, who consents to any contribution or expenditure by the corporation or labor organization, as the case may be, and any person who accepts or receives any contribution, in violation of this section, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

<sup>5</sup> Two corporations—Gulf Oil and Minnesota Mining and Manufacturing Company—gave to Presidential campaigns of both major parties. The figures do not include corporate contributions of the milk producers discussed elsewhere in the Report.

tions sought or obtained assurances that the contribution was legal at the time it was made.

There is no clear pattern to the solicitations that led to corporate contributions. Thus, a number of fundraisers solicited contributions that turned out to be corporate; other contributions solicited by these same individuals give all the appearance of being totally legal. Some of these solicitations were vigorous, some were low key, to the point where the contribution can be considered voluntary.

The sources of the corporate money also varied. The single most utilized source of corporate funds was foreign subsidiaries. Corporate funds obtained by this means included corporate "reserves" of apparent long standing; others give indications of being isolated transactions with the funds accumulated in response to the solicitation in question. Another pattern included the use of corporate expense accounts and corporate bonuses to reimburse corporate executives for their contributions; in most cases, there was, apparently, a contemporaneous understanding at the time the contribution was made or, in fact, the corporate "reimbursement" actually preceded the contribution. Finally, in the great majority of cases, the contributions were in the form of cash, which on several occasions was generated very rapidly by the donor.

Although the bulk of the contributions preceded April 7, 1972, the date the new reporting law (Federal Elections Campaign Act of 1971) went into effect, there was no disclosure of the corporate nature of any contributions until July 6, 1973, or 15 months after most of them were made. The main impetus to the disclosure came from the imaginative suit brought by Common Cause<sup>6</sup> to compel disclosure of pre-April 7 contributions. When it became apparent that some sort of disclosure by the Finance Committee To Re-Elect the President would be required, letters were sent out by FCRP seeking enumeration of the individuals who had actually made the contributions. The responses varied: In some cases the corporate executives prepared a list of employees—either with or without their consent—that was false; other executives promptly called in attorneys who advised them to make full disclosure, which was done. According to the evidence, in at least two cases—American Ship Building Co. and Northrop Corp.—elaborate schemes to conceal the corporate nature of a contribution were indulged in, and involved lying to the FBI.

There follows a summary of the committee's investigation into alleged and admitted corporate contributions.

#### A. AMERICAN AIRLINES, INC.

In March 1972, following a solicitation by Herbert Kalmbach, the personal attorney for the President and also counsel to United Airlines, American Airlines, Inc., made a contribution from corporate funds in the amount of \$55,000.

As related in public testimony by George A. Spater, former chairman of the board and chief executive officer of American Airlines, he first met Kalmbach in March 1971. But no solicitation occurred until July 30, 1971, when Spater was asked by Daniel Hofgren, vice chairman of FCRP, to join him and Kalmbach for lunch. During that luncheon, there was no specific request for a contribution, although

<sup>6</sup> *Common Cause v. Finance Committee To Re-Elect the President*, Civil Action 1780-72, D.D.C.

Kalmbach's role as a fundraiser was mentioned. Following the luncheon, Spater, anticipating that he would be getting a request from Kalmbach for a substantial contribution and having heard that FCRP was "searching for \$100,000 givers," asked an American Airlines official to assemble \$100,000.<sup>7</sup>

Two or so months later Kalmbach called Spater, and the two of them had dinner in New York on October 20, 1971. At this dinner Kalmbach asked for a contribution in the neighborhood of \$100,000, advising Spater that this would put him in a "special class."<sup>8</sup> Spater replied that he would do his best to produce \$70,000 or \$75,000. Kalmbach said that he hoped Spater would do better; as described by Spater, Kalmbach was less than enthusiastic about Spater's response to his request of \$100,000. No mention of cash was made in this discussion.<sup>9</sup>

Spater stressed that he would have preferred making the whole contribution in a way that would have been unobjectionable but "I wasn't able to do it." When Spater was asked whether he drew the inference from what Kalmbach had said that he was trying to get \$100,000 from Spater personally, Spater replied that, "It never entered my mind that he was, because I simply do not have the capacity to do it, but that is a subjective evaluation."<sup>10</sup>

Following this request and while the corporate money was being generated, Spater obtained a series of \$5,000 checks from a friend, had those checks converted to cash and arranged for a series of \$5,000 donations in \$100 bills to be made to FCRP between December 1971 and February 1972.

Meanwhile, Spater's colleagues arranged for a check in the amount of \$100,000 to be drawn on American's account at the Chemical Bank, which was transmitted to a Swiss account of a Lebanese agent, Andre Tabourian, whom American had utilized in more traditional business enterprises.<sup>11</sup> The \$100,000 was charged on American's books as "a special commission to Andre Tabourian in connection with used aircraft sale to Middle East Airlines."<sup>12</sup> After the money was transmitted to Switzerland, it was transferred back to the United States to an account maintained at the Chase National Bank in New York. Later, the Lebanese agent came to New York, went to the bank, obtained the \$100,000 in cash, and gave it to an American Airlines official, who returned to the office and placed it in an office safe.

In March 1972, with \$15,000 already having been contributed to FCRP and \$5,000 more from the same source in hand, Spater arranged for \$55,000 in corporate funds to be removed from the safe. As in the prior instances, the money in \$100 bills was put in an unmarked envelope and delivered either to Lee Nunn or Hugh Sloan at FCRP.<sup>13</sup>

Aside from this contribution, Spater admitted that an American Airlines employee, while on the company payroll, had worked for Democrats for Nixon. This corporate contribution involved an additional \$10,000.

<sup>7</sup> 13 *Hearings* 5499-500.

<sup>8</sup> 13 *Hearings* 5494, 5500. Kalmbach does not dispute that he told Spater that there were different classes of contributors.

<sup>9</sup> 13 *Hearings* 5500, 5506.

<sup>10</sup> 13 *Hearings* 5511, 5513.

<sup>11</sup> 13 *Hearings* 5837.

<sup>12</sup> 13 *Hearings* 5837.

<sup>13</sup> 13 *Hearings* 5501-2.



More than a year later, on about April 26, 1973, Spater received a telephone call from Kalmbach, who stated that Stans was saying that in view of the Common Cause suit against FCRP, it might be necessary to release information concerning contributors; and if this were done, American Airlines would be shown as having given \$75,000. Apparently Kalmbach was not seeking information, and Spater did not tell him anything about the source of the funds.<sup>14</sup> After receiving additional calls concerning the possibility of disclosure, Spater went to counsel and, following discussions, agreed to admit to the illegal contribution. On July 6, 1973, American Airlines became the first corporation to make disclosure of a corporate contribution in a 1972 campaign. Thereafter, the \$55,000 in corporate funds was returned from FCRP, and the entire \$100,000 returned to proper corporate channels.

While noting that there was no quid pro quo involved, Spater testified at some length to the circumstances which led him, a lawyer and former general counsel for American Airlines, to participate in the illegal transaction. During the time of the solicitation by Kalmbach, American had numerous matters pending before various agencies of the Federal Government, including approximately 20 of substance; Spater noted that it is not unusual for American to have a substantial number of significant matters pending with the Government.<sup>15</sup>

Among the pending items was a proposed merger between American and Western Airlines. Spater noted that the merger agreement expired in February 1972, and it had been extended about three or four times. Spater had heard rumors to the effect that the White House was opposed to the merger; the final decision, Spater noted, was in the hands of the President, himself. In late May or June, 2 or 3 months after the final installment was delivered to FCRP, Spater turned to Stans, former Commerce Secretary and Chairman of FCRP, for information concerning the White House position. Spater testified that he turned to Stans because "I did not know anybody in the political arena at the White House." Stans never provided him with any information. Ultimately the merger was not authorized.<sup>16</sup>

Although Spater acknowledged that Kalmbach never threatened him, and the merger and other American Airlines problems were never discussed, Spater was apprehensive of the solicitation, particularly in view of the fact that Kalmbach was not only the attorney for American's principal competitor, United Airlines, but was the President's personal attorney. Spater expanded on this theme in response to questions from Senator Ervin.

Senator ERVIN. Now here in these circumstances, Mr. Kalmbach came in and said he wanted a contribution of \$100,000 and he hoped that it would be received and all those who made a contribution of as much as \$100,000 would be put in some kind of a select class.

Mr. SPATER. Yes, sir.

Senator ERVIN. Well, didn't you interpret that as a sort of implied promise, as far as Mr. Kalmbach could make one, that people who had made contributions of \$100,000 would have a superior consideration to people who were not able to make contributions of that much?

<sup>14</sup> 13 *Hearings* 5503.

<sup>15</sup> 13 *Hearings* 5505, 5513, 5850.

<sup>16</sup> 13 *Hearings* 5503.

Mr. SPATER. Well, there was the other possibility, and that was a negative one, which was very much in my mind. I think as a result of the hearings before this committee, it probably might be something, and that is that you would be regarded as a *persona non grata* if you didn't. There were two aspects: Would you get something if you gave it, or would you be prevented from getting something if you didn't give it?

Senator ERVIN. In other words, to use the vernacular expression, a request of this kind has a tendency to instill the fear that if you don't comply, you might get, in the use of the vernacular, get it in the neck from some Government agency?

Mr. SPATER. Yes; Mr. Kalmbach, of course, is a lawyer for our principal competitor who was opposing us in the merger case, so I didn't believe that giving him the money would help us in that case.

Senator ERVIN. But you did fear that if you didn't give the money, there might be some consequences?

Mr. SPATER. Yes, sir, I was worried.

Senator ERVIN. Departing from the normal use of language, would it not be fair to say that requests of people of high authority who control great Government power, or who have direct access to those who control great Government power, when they ask for contributions, there is a sort of unspoken coercion in the request, isn't there?

Mr. SPATER. Unspoken what, sir?

Senator ERVIN. Does not a request for a campaign contribution of persons from industries or the officers of industries that are particularly subject to Government regulation have the effect, although there is no coercion spoken, but they have the effect of some kind of an implied coercion, don't they?

Mr. SPATER. Yes, sir, I explained it when I was talking to counsel of the staff that it is something like the old medieval maps that show a flat world and then what they called "terra incognita," with fierce animals lying around the fringes of this map. You just don't know what is going to happen to you if you get off it. I think sometimes, the fear of the unknown may be more terrifying than fear of the known. I think this is a very large element in the picture.<sup>17</sup>

Under questioning from Senator Montoya, Spater added:

Senator MONTOKA. You did not, during your three conversations with Mr. Kalmbach, give any slight thought to the possibility that he was trying to obtain from you a voluntary contribution for \$100,000, with emphasis on the "voluntary?"

Mr. SPATER. No. I do not think he would have introduced this idea of a special class nor would he have approached me from that point of view.<sup>18</sup>

As a possible solution, Spater proposed restrictions on solicitation on the part of certain former high Government officials:

I believe that the present system places unfair pressures both on candidates and on corporate executives. As I said in

<sup>17</sup> 13 Hearings 5514.

<sup>18</sup> 13 Hearings 5518.

my statement of July 6, most contributions from the business community are not volunteered to seek a competitive advantage, but are made in response to pressure for fear of the competitive disadvantage that might result if they are not made. The process degrades both the donor and the donee.

\* \* \* \* \*

It is particularly dangerous when the pressure is implicit in the position of the individual making the solicitation. I suggest, therefore, that congressional consideration be given to the advisability of making certain individuals wholly ineligible to engage in campaign solicitation. In particular, I recommend that solicitation by individuals who are personal representatives of officers holding such positions be made unlawful.<sup>19</sup>

### B. AMERICAN SHIP BUILDING CO.

On April 6, 1972, Ronald H. Slater, an official of the American Ship Building Co., delivered \$100,000 to the offices of the Committee to Re-Elect the President. Company officials have testified that at least \$25,000 of that money came from corporate funds.<sup>20</sup> The remaining \$75,000 is credited to George M. Steinbrenner III, chairman and chief executive officer of the company, although the source of these funds has not been ascertained.

According to the testimony of Robert Melcher, counsel to American Ship Building, Thomas Evans, an attorney with the firm of Mudge, Rose, Alexander and Guthrie and the deputy director of the Finance Committee to Re-Elect the President, introduced Steinbrenner to Kalmbach in Washington. Melcher testified:

Mr. Steinbrenner told me that he said that, Mr. Kalmbach said that he would like to have Mr. Steinbrenner make a contribution in the Committee to Re-Elect the President. And, as I further recall what Mr. Steinbrenner told me, that Mr. Kalmbach had indicated to him that the Republicans were—I think I quote him—going to win big this year, and that while he was aware of and was sorry about the fact that the OSS claim had been turned down, that was water over the dam, and that he apparently also made reference to the fact that Mr. Steinbrenner had been active in Democratic politics—I believe he ran the Democratic congressional dinner campaign in 1969 and 1970—and that it would be appropriate for Mr. Steinbrenner to—I think he said—get on the right team or something like that. We are going to be around here for the next 4 years, and you ought to get with the right group.

And then I think \* \* \* Steinbrenner asked, well now, what kind of a contribution do you want? I mean, what is appropriate?

<sup>19</sup> 13 *Hearings* 5515. American Airlines was charged with a nonwillfull violation of Title 18, U.S.C., sec. 610, pleaded guilty and was fined \$5,000.

<sup>20</sup> Much of the evidence discussed below was presented at public committee sessions by Robert E. Bartlome, secretary, and Matthew E. Clark, Jr., director of purchasing, for the company. Other witnesses, Stanley J. Lepkowski, treasurer and comptroller, and John H. Melcher, Jr., an attorney and executive vice president, testified in executive session. Steinbrenner, who is under indictment in connection with the matter, was not questioned after his attorney advised that he would assert his fifth-amendment privilege.

And Mr. Kalmbach said that there were various, apparently, categories of contributions. And I gather these were in sort of \$25,000 increments, and I gathered from that, there was an indication that in order to have any—and these are Steinbrenner's words—"input into the administration," there would be a need to make a very substantial contribution \* \* \*. Well, I think he said that there were some people that were contributing \$250,000. Others were contributing \$500,000, and I think Steinbrenner said to me that it would, or he got the impression anyway, whether Kalmbach actually said this or not I don't know—obviously, I wasn't there—but that it would take \$100,000 to get into the select group or whatever.

Senator ERVIN. The special class was the term?

Mr. MELCHER. Well, whatever, Senator. I don't recall. But that was the gist of what Mr. Steinbrenner related to me of his conversation with Mr. Kalmbach.

\* \* \* \* \*

Mr. MECHER. I might add one other thing, Mr. Mayton, and this is a paraphrase and it may be totally improperly stated, but this is the substance of it, that they would be happy to receive any contribution, but that if you were in the \$25,000 class or if you were in the \$50,000 class, you would be amongst many, many thousands, and that you probably Would be lost in the shuffle or wouldn't be remembered.<sup>20a</sup>

At the time of the solicitation, American Ship Building was involved in two major matters with the Government.

In the first, the company was seeking \$5.4 million in construction cost overrun for the Oceanographic Survey Ship *Researcher*, which was referred to previously as the OSS claim. This claim was denied by Maurice Stans on February 11, 1972, 4 days before he left his post as Secretary of Commerce. The company appealed to his successor, Peter G. Peterson without success.

A partial settlement was reached on May 2, 1972, pursuant to which American Ship Building paid \$230,000 in late delivery and construction penalties. The Government did, however, excuse more than half of the 99-week delay penalties that could have been imposed.

The second matter involved an antitrust suit which was filed by the Justice Department in August 1972. The suit sought to block the purchase of nine bulk cargo ships which operated on the Great Lakes. The Government charged that, if allowed, this acquisition would give American Ship Building almost total control of grain shipping operations on the lakes.

The acquisition was finally allowed with certain stipulations. The settlement, while not altogether beneficial to American Ship Building, has given the company substantial control of the grain shipping market on the Great Lakes.

In 1970, according to Robert E. Bartlome, corporate secretary, and Stanley J. Lepkowski, treasurer and comptroller, Steinbrenner advised them that he had been under some pressure to make political contributions. He explained to them that many companies secured funds for contributions through the granting of bonuses to employees,

<sup>20a</sup> Robert Melcher executive session, Dec. 3, 1973, p. 18.

who then made the proceeds available to the company. Lepkowski voiced some objections to this scheme but after assurances from Steinbrenner a bogus bonus plan was adopted.

The three men drew up a list of six trusted employees to receive "bonuses," including Lepkowski and Bartlome. Steinbrenner was the only person with the authority to grant bonuses, and in September 1970 he appears to have authorized the first of a series of bonuses. In late March or early April 1972, Bartlome related, Steinbrenner advised him that \$25,000 was needed for an unspecified contribution. After some discussion between the two, it was decided that the bonus list had to be increased to eight employees. Since one official had left the company three names were added to the list. In addition to Bartlome and Lepkowski, the bonus list now included Robert Clark, Robert Dibble, Gordon Stafford, Ian Cushman, Dan Kissel, and Roy Walker.

On April 5 or 6, Steinbrenner supplied Bartlome with a list of Nixon reelection committees and authorized \$5,000 bonuses. In addition, he gave Bartlome the name and address of the person to whom the donations were to be delivered—Herbert Kalmbach at 1701 Pennsylvania Avenue.

On the morning of April 6, 1972, Bartlome contacted each of the people on the bonus list. As in previous transactions, they were given their bonus checks—in this case \$5,000—and asked to write personal checks of generally about \$3,000.<sup>21</sup> He also furnished each person with a slip of paper indicating the reelection committee to which their check was to be written. Bartlome collected checks totaling \$25,000 and placed them in an envelope that already contained \$75,000 in \$3,000 checks given to him earlier by Steinbrenner.<sup>22</sup>

Bartlome gave the envelope containing \$100,000 to Slater for delivery. Slater arrived at Kalmbach's office early in the afternoon of April 6, 1972, and left the envelope with a secretary. Slater later confirmed that Kalmbach had received the donations.

The \$40,000 in bonuses was charged against the Maritime Administration's claim cost account for the O.S.S. *Researcher*. Lepkowski testified that this type of cost, although carried on the books as a receivable against O.S.S. *Marad* account cost claim, would not normally be presented for payment but rather taken as a deduction for tax purposes. He did concede, however, that it was possible for this claim to be presented to the Maritime Administration for payment. In either case the Government and ultimately the taxpayer would be picking up at least part of the cost.

In January 1973, Steinbrenner became concerned about the bogus bonus payment after a news reporter began questioning some of the purported contributors. According to Bartlome and Lepkowski, Steinbrenner asked them to arrange a "legitimate bonus payment plan" to help camouflage the April 1972 transaction. A dozen employees, including four in the previous list, were given bona fide bonuses. Bart-

<sup>21</sup> Because the bonuses had to be reported as income by the individual involved, the amount that had to be made available for company use varied somewhat depending on the individuals' tax liability. In this case the \$40,000 gross netted \$26,200 after tax allowances. Any funds not needed by the company at the time bonuses were declared were kept in trust for later contributions.

<sup>22</sup> Steinbrenner's checks were drawn on his personal account and while there is no testimony linking this money to the corporation, it is known that in October 1970 Steinbrenner was given a \$75,000 bonus. The minutes of the board of directors meeting state the bonus was "for extra effort in the settlement of the U.S. Coast Guard claim"—referring to a favorable settlement for cost overruns claim. In mid-1973 Steinbrenner instructed Bartlome to delete the phrase "in settlement of the U.S. Coast Guard claim."

lome was asked to have the 1972 and 1973 bonus recipients sign a certificate prepared by Melcher. This certificate stated that the bonus received was bona fide and not connected with any political contribution. The 1972 recipients were asked to backdate their signatures to December 1971.

On or about August 1, 1973, Steinbrenner apparently instructed Bartlome to prepare three backdated memos purporting to represent bonuses since 1970. The purpose of these memos was to further camouflage the bonuses by adding some backup material. The memo granting the April 1972 bonus is dated April 5, 1972, and states:

Mr. George M. Steinbrenner III today determined that the Amship division had performed in an extraordinary manner and determined that the following receive the bonuses approved in the November 11, 1971, board of directors meeting.<sup>22a</sup>

It listed Bartlome, Lepkowski, Cushman, Kissel, Clark, Stafford, Walker, and Dibble. All the bonuses were in the amount of \$5,000.

Bartlome testified he maintained a record of the receipts and disbursements until:

One day—it was in my office—Mr. Steinbrenner was shown the records for some reason. Later, he contacted Mr. Lepkowski and a meeting was scheduled that afternoon. He asked Mr. Lepkowski to bring any records that we might have at Lorain which would show the bonuses and the distribution of the bonuses and the dates.

Mr. DASH. Do you recall about when this was that you were asked to turn these records over to Mr. Lepkowski and he took them over to Lorain and to Mr. Steinbrenner?

Mr. BARTLOME. To the best I can recall, it was April of 1973.

Mr. DASH. Do you know what happened to those records?

Mr. BARTLOME. Mr. Lepkowski advised me that Mr. Steinbrenner destroyed the records.<sup>23</sup>

In August 1973, the difficulties increased. In executive session, Bartlome related that:

A couple of days prior to August 23, 1973, we were advised by Mr. Steinbrenner that the FBI would be in to interview us, that it was a routine information-gathering venture, that it would not be under oath, our testimony would not be sworn to.

At that time, he related a story to the effect that the group of employees, among many others, had had several conversations in which they had determined to make political contributions, that I had approached Mr. Steinbrenner, suggesting that he advise us in the manner in which contributions should be made. He had told us that if the contributions were small, they should be made to a local Republican party; that if they were a large contribution, that he would provide us a list of committees to which contributions could be made, and that he would advise us how to get the checks down to Washington.

<sup>22a</sup> 13 Hearings 5435.

<sup>23</sup> 13 Hearings, 5424.

Mr. MAYTON. Who gave you those instructions?

Mr. BARTLOME. Mr. Steinbrenner. They were not instructions; they were related to us, or informed us to a way that our testimony would be given to the FBI.<sup>24</sup>

In public session, Bartlome expanded upon his earlier testimony:

Mr. DASH. Did you, in fact, give this kind of statement to the agents of the FBI?

Mr. BARTLOME. Yes, I did.

Mr. DASH. Would you look at exhibit 271-10? This appears to be a statement dated August 23, 1973, Lorain, Ohio, a statement at the end of which it is attested: "I have read the statement consisting of this and six other pages. Initialed each page and each correction. This statement is true and correct to the best of my recollection." It is signed by Robert E. Bartlome.

Is this the statement or a copy of the statement that you gave to the FBI?

Mr. BARTLOME. Yes.

Mr. DASH. In effect, this was a false statement?

Mr. BARTLOME. Yes.

Mr. DASH. Did you show this statement to any of the other employees?

Mr. BARTLOME. We exchanged statements among us after we—Mr. Lepkowski and I—had been interviewed.<sup>25</sup>

Lepkowski acknowledged that he also signed a similar statement on the 23d.

According to Matthew Clark, a day or two later he had a conversation with Steinbrenner. At that time Clark recalled:

Mr. Steinbrenner mentioned that the FBI would be interviewing us [other six contributors] about our contributions and that Mr. Melcher, our corporate lawyer, would be talking to us about it further.<sup>26</sup>

Clark testified that he was subsequently contacted by Melcher and told that:

... we would be questioned by the FBI and to tell them that my wife and I had decided on our own to donate the money to reelect the President. I mentioned to Mr. Melcher that I did not want to involve my wife and would not, but I would say that I had decided to do this.

Mr. Melcher had in his possession previous statements by Mr. Bartlome and Mr. Lepkowski.<sup>27</sup>

\* \* \* \* \*

Mr. DASH. Did he show them to you?

Mr. CLARK. Just by holding them up in front of me and saying, "Reports by Mr. Lepkowski and Mr. Bartlome, and I want you, after you are through here, to go down and take a look at them to get an idea what they had said."

<sup>24</sup> Robert E. Bartlome, executive session, October 30, 1973, at p. 11.

<sup>25</sup> 13 *Hearings* 5426.

<sup>26</sup> 13 *Hearings* 5407.

<sup>27</sup> 13 *Hearings* 5407.

Mr. DASH. And what impression did you get from that recommendation?

Mr. CLARK. Well, the impression I got—he had mentioned that we should say that we gave the donation because of—because of President Nixon's involvement in the shipping industry and to help the shipping industry to get an idea of what vein the other fellows had made the—

Mr. DASH. In other words, would it be fair to say, what he was suggesting to you was that your stories be the same, or approximately the same, that you were giving a voluntary contribution out of your own funds and that it was for President Nixon's reelection because of what he had done for the shipping industry?

Mr. CLARK. Yes.

Mr. DASH. Now, did you in fact go down and read Mr. Bartlome's and Mr. Lepkowski's statements?

Mr. CLARK. I went down and contacted Mr. Bartlome. He did not have this report there. I then went and saw Mr. Lepkowski. He did have his report. I did read it in Mr. Lepkowski's presence and returned it to him.

Mr. DASH. Then were you interviewed by the FBI agents?

Mr. CLARK. Yes.

Mr. DASH. And did you in fact give the kind of statements that Mr. Melcher and Mr. Bartlome and Mr. Lepkowski indicated that you should give?

Mr. CLARK. Similar, yes.<sup>28</sup>

The remaining five contributors were also interviewed by the FBI, and each gave and signed a similar statement. At least some of the others talked to Melcher or Steinbrenner, and all were aware of the previous statements given to the FBI by Lepkowski and Bartlome.

Between August 31, 1973 and September 3, 1973, subpoenas were issued by the Watergate grand jury to each of the eight contributors. The subpoenas called for an appearance on September 5, 1973. Clark was the first to receive a subpoena and he notified Melcher who notified Steinbrenner.

At 11 p.m. on August 31, Steinbrenner called Bartlome into the office for the first of a series of meetings prior to the scheduled September 5 grand jury appearance. Bartlome describes these meetings:

Mr. BARTLOME. He told me that Mr. Clark had received a subpoena and was to appear before the grand jury on September 5; that we probably all would be receiving subpoenas, but we would not have to go before the grand jury.

He again recalled the story which was basically the same as in the FBI interview statement.

Mr. DASH. In other words, in this meeting, he restated to you in his own words the so-called story, the fact that there was a meeting and that all the employees had on their own decided to give contributions for the reelection of the President and out of their own funds?

Mr. BARTLOME. Yes.

Mr. DASH. What did you say to Mr. Steinbrenner at that time, if anything?

<sup>28</sup> 13 *Hearings* 5408.



Mr. BARTLOME. It was my feeling from the conversations with these gentlemen that they would not perjure themselves if they went before the grand jury.

Mr. DASH. Did you say anything about what you would do?

Mr. BARTLOME. I said I would not perjure myself.

Mr. DASH. Did you again meet with Mr. Steinbrenner on September 1, which was the very next day?

Mr. BARTLOME. Yes.

Mr. DASH. Was there anything particular of note in that conversation?

Mr. BARTLOME. Same conversation.

Mr. DASH. Same thing. Mr. Steinbrenner again sort of renewing his recollection, or at least what he would like it to be, of the story told to you?

Mr. BARTLOME. His recollection of what happened on the granting of bonuses.

Mr. DASH. Did you dispute that with him or did you understand that to be an effort just to try to get the story straight?

Mr. BARTLOME. At one of the meetings here in the next 2 or 3 days I did discuss with him what I felt to be the truth.

Mr. DASH. Apparently on Labor Day, there was a meeting about which we have already heard testimony from Mr. Clark. You attended that meeting?

Mr. BARTLOME. Yes.

Mr. DASH. That was September 3. Who else was there?

Mr. BARTLOME. Mr. Clark, Mr. Lepkowski, and myself.

Mr. DASH. This was a meeting with Mr. Steinbrenner?

Mr. BARTLOME. Yes, it was.

Mr. DASH. Can you briefly tell us what was discussed, what Mr. Steinbrenner said and what was said by others at the meeting, including yourself?

Mr. BARTLOME. I told him I could not testify as to the accuracy of the FBI statement; that the rest of the fellows would not perjure themselves, and we were told: "Don't worry, you won't have to go before the grand jury."

Mr. DASH. In other words, Mr. Steinbrenner told you, you don't have to worry about anything; you won't have to go before the grand jury.

Mr. BARTLOME. That is right.<sup>29</sup>

On September 4, the day before the scheduled grand jury appearance, Steinbrenner, Melcher, Lepkowski, McMahon, and Bartlome met.

Mr. DASH. What did Mr. Steinbrenner say at that meeting?

Mr. BARTLOME. Basically, he related the same recollection as to how the contributions were made and why they were made; that they were large and small—how they would be made and distributed. He remembered that on the bonus list there were only two of the gentlemen, not the eight; and that very likely he would recollect there would be payment of the bonus up to April 6—authorizing payment up to April 6.

Mr. DASH. What did you say at that meeting?

<sup>29</sup> 13 *Hearings* 5427-28.

Mr. BARTLOME. I told him that this was not the way it was handled, and I again mentioned at this meeting that the gentlemen—it was my feeling they would not perjure themselves but would tell the truth before the grand jury.

Mr. DASH. Now, did Mr. Steinbrenner react to that when—in fact, did somebody at that meeting say, “Finally, we learned the truth”?

Mr. BARTLOME. That was the following meeting with Mr. McMahon and Mr. Melcher.

Mr. DASH. Was Mr. Steinbrenner at that meeting?

Mr. BARTLOME. The same date.

Mr. DASH. Mr. Steinbrenner was at that meeting?

Mr. BARTLOME. Yes, he was.

Mr. DASH. And did Mr. Steinbrenner make any statement of reaction to the fact that the truth might come out?

Mr. BARTLOME. I was questioned by Mr. McMahon and related to him what I felt was the true story, and he said something to the effect, “Well, now we have finally learned the truth.”

Mr. DASH. And what did Mr. Steinbrenner say?

Mr. BARTLOME. Mr. Steinbrenner was distraught, and I believe he did not change his recollection of what happened at that time.<sup>30</sup>

The September 5, 1973, grand jury appearance was postponed by Judge John J. Sirica until September 18, to allow the eight parties involved to retain individual counsel.

Steinbrenner met the following day with six of the contributors and announced he had retained counsel to assist the eight. Clark testified that at this meeting:

Mr. Steinbrenner mentioned that he had wanted to go before the grand jury or before the committee—the prosecuting committee, then the Cox committee—as did previous companies, such as American and Braniff, I think are the names he mentioned. He wanted to do that but he was advised not to.<sup>31</sup>

Other testimony indicates that Melcher was the adviser.

The attorney retained by Steinbrenner met with Melcher, Slater, and the eight contributors on September 11, 1973. He advised the eight contributors that by signing the false FBI statement they could be in violation of title 18, United States Code, section 1001 (False statements to Federal officers). The subject of immunity was brought up and the attorney explained the general procedure for procuring it, and he advised them to retain personal counsel.

On September 15, 1973, the entire group traveled to Washington, D.C., and, with the help of Melcher, retained counsel from various Washington firms.

The employees testified before the grand jury on September 18, 1973, under a grant of immunity.

On April 5, 1974, Steinbrenner was indicted on one count of conspiracy under 18 U.S.C. 371, five counts of willful violations of 18

<sup>30</sup> 13 *Hearings* 5428–29.

<sup>31</sup> 13 *Hearings* 5412.

U.S.C. 610, two counts of aiding and abetting the making of a false statement under 18 U.S.C. 1001, four counts of obstruction of justice under 18 U.S.C. 1503 and two counts of obstruction of a criminal investigation under 18 U.S.C. 1510. Steinbrenner has entered not guilty pleas to all counts and is awaiting trial. The company was indicted on the same day on two counts, one count of conspiracy under 18 U.S.C. 371 and one count of a nonwillful violation of 18 U.S.C. 610. The company also pleaded not guilty.

On April 11, 1974, Melcher entered a guilty plea to a one count violation of 18 U.S.C. 610 and was fined \$2,500.

### C. ASHLAND OIL Co., Inc.

Ashland Oil Co., Inc., approximately 70th among American manufacturing companies with assets of about \$1.5 billion and annual sales of about \$2.3 billion, made a \$100,000 pre-April 7, 1972, cash contribution to the Finance Committee To Re-Elect the President. Orin Atkins, chairman of the board and chief executive officer of Ashland Oil Co., testifying at a public session, stated that in early March 1972, Maurice Stans, by telephone, asked for a \$100,000 contribution for President Nixon's campaign and, further, that a \$10,000 advertisement in the Republican convention brochure be purchased. Atkins explained that after discussing Stans' request with the Ashland president and two of its vice presidents, he concluded that the corporation should make the contribution and purchase the advertisement.

Atkins related that the money for the contribution was disbursed from their subsidiary, Ashland Petroleum-Gabon Corp., Gabon, Africa, and charged to an undeveloped leasehold sometime in late March 1972. The use of false vouchers and false bonuses to generate funds for the contribution was considered and rejected by Atkins and his colleagues.<sup>32</sup> The Gabon subsidiary was used largely in order to prevent—or at least postpone—taking the transaction as an income tax deduction.<sup>33</sup> In late March 1972, William R. Seaton, vice chairman of the board of Ashland Oil, picked up \$100,000 in cash in Geneva, Switzerland. It was delivered on April 3, 1972, by Clyde Webb, a vice president of Ashland, to Stans who “dumped it in his desk drawer” and said “Thank you.”<sup>34</sup> Atkins explained why the decision was made to withdraw the money from the Swiss account:

Well, \$100,000 in cash is a commodity which U.S. banks, I do not believe, normally deal in from day to day. But I think the Swiss, being a more sophisticated financial society than ours, I believe, are used to dealings in such numbers, and it does not excite anybody's curiosity if you walk in and ask for \$100,000 out of a Swiss bank. If you did that in the United States, everybody and his brother would be wondering what you did with it.<sup>35</sup>

Sometime in the spring of 1973, Stans told Webb by telephone that there was a list of contributors and that Ashland Oil was on it and “that he was trying to reconstruct the list and would like to

<sup>32</sup> 13 *Hearings* 5452.

<sup>33</sup> 13 *Hearings* 5443.

<sup>34</sup> 13 *Hearings* 5444.

<sup>35</sup> *Ibid.*

have from us (Ashland Oil) any information that we could reconstruct.”<sup>36</sup> No response was made to Stans’ request.

Later, in a letter<sup>37</sup> dated July 9, 1973, Kenneth Parkinson, counsel for FCRP, advised Atkins that he understood that Atkins had informed the finance committee that the contribution of \$100,000 was made by Mrs. Atkins and himself. Atkins stated at that time he had not advised anyone on the finance committee who had made the contribution.<sup>38</sup> Meanwhile, in a letter dated July 16, 1973, Ashland’s counsel likewise informed FCRP of the corporate source of the contribution and requested that the \$100,000 be returned to Ashland Petroleum-Gabon Corp.<sup>39</sup> On the same date, FCRP transmitted a check for \$100,000 payable to Ashland Petroleum-Gabon Corp. to the company’s attorney.<sup>40</sup>

When asked, “What were the reasons that prompted you to make the illegal corporate gift?” Atkins responded:

Well, again the situation today is difficult to rationalize. We were not seeking any particular privilege or benefit because we don’t do any significant business with the Government. I think all we were attempting to do was to assure ourselves of a forum to be heard. Were we a larger factor in our respective industries, we could expect to have access to administrative officials in the executive branch of Government with ease, but being a relatively unknown corporation, despite our size, we felt we needed something that would be sort of a calling card, something that would let us in the door and make our point of view heard.

We didn’t expect those points of view to be accepted, but only from the point of view of being able to express them and that was our thinking or rationale as to why we were interested in making any type of contribution.<sup>41</sup>

When questioned at public session, Atkins said that the contribution “produced [no] distinctive benefit to Ashland Oil.” Atkins included in this respect the subsequent action by the Government lifting import quotas on foreign oil.<sup>42</sup> However, he was shown a copy of a letter<sup>42a</sup> which he sent to a stockholder which stated:

“There was a good business reason for making the contribution and, although illegal in nature, I am confident that it distinctly benefited the corporation and the stockholders.”

Atkins explained “its (contribution) intention was to give us a means of access to present our point of view to the executive branch of the Government.”<sup>43</sup> Although in view of the timing of events, Atkins said, no such benefits occurred. However, 3 days after the contribution Ashland officials met with officials of the Office of Emergency Preparedness on the subject of obtaining greater supplies of crude oil.<sup>44</sup> There is no evidence that the meeting and the contribution were connected.

<sup>36</sup> 13 Hearings 5445.

<sup>37</sup> 13 Hearings 5796.

<sup>38</sup> 13 Hearings 5445.

<sup>39</sup> 13 Hearings 5797.

<sup>40</sup> 13 Hearings 5798.

<sup>41</sup> 13 Hearings 5442.

<sup>42</sup> 13 Hearings 5446-47.

<sup>42a</sup> 13 Hearings 5800.

<sup>43</sup> 13 Hearings 5447.

<sup>44</sup> 13 Hearings 5454.

Atkins acknowledged that at no time did Stans state that he expected the contribution to be corporate, but stated:

I can't testify as to what Mr. Stans had in mind but the minute he mentioned it I knew it had to come from the company . . . \$100,000 is an awful lot of money and I knew what I had in the bank and it wasn't anywhere close to that and I knew what my associates had and there was only one source that it could come from, from my point of view.<sup>45</sup>

Atkins said that, as far as he knew, Stans had no reason to believe that he could personally afford \$100,000.<sup>46</sup>

Stans did not threaten Atkins, and Atkins was under no obligation to Stans. The solicitation conversation took about 3 minutes and, according to Atkins, Stans said something like, "Mr. Atkins, I would like to have a donation." Yet, Atkins felt under considerable pressure to contribute the requested \$100,000. Atkins noted that this was the only request for a contribution from a former Cabinet officer.<sup>47</sup> Senator Ervin then addressed Atkins:

Senator ERVIN. Mr. Atkins, it looks to me as if Mr. Stans had made an assessment.

Mr. ATKINS. I think that is a correct assessment.

Senator ERVIN. In other words, he told you in effect that he would let you off with a contribution of \$100,000 plus a \$10,000 advertisement in the convention paper.

Mr. ATKINS. I believe you are right.

Senator ERVIN. He never left you much option in the matter, did he?

Mr. ATKINS. I don't believe so. It is true that I didn't have much of an option.

Senator ERVIN. Now, this question of maintaining the anonymity of contributions is a two-way street. It not only protects the disclosure of the fact of the identity of the contributor but it also prevents disclosures of facts which would indicate—give a lead as to who raised the contribution and by what method it was raised.

Mr. ATKINS. Yes, sir.

Senator ERVIN. Mr. Stans made a great profession when he was before this committee that he was merely trying to conceal the identity of contributors. But do you not agree with me that the method—when you concealed the identity of a contributor you also concealed a method, the way by which you can find how the recipient of the contribution got the contribution?

Mr. ATKINS. Yes.<sup>48</sup>

\* \* \* \* \*

Senator ERVIN. It certainly is a human weakness or desire for anyone engaged in business to have a friendly ear in Government.

<sup>45</sup> 13 *Hearings* 5451.

<sup>46</sup> 13 *Hearings* 5459.

<sup>47</sup> 13 *Hearings* 5458.

<sup>48</sup> 13 *Hearings* 5448.

Mr. ATKINS. That is right, very much so.

Senator ERVIN. And so departing from the realm of politics into the spiritual, the method of raising campaign contributions now borders on extortion, does it not?

Mr. ATKINS. Very much so.<sup>49</sup>

Ashland Petroleum-Gabon Corp. was indicted for making a corporate contribution, and Atkins was indicted for aiding and abetting the corporation in making the corporate contribution. The corporation entered a plea of guilty and was fined \$5,000, and Atkins entered a plea of nolo contendere and was fined \$1,000.

#### D. BRANIFF AIRWAYS, INC.

Braniff Airways, Inc., contributed \$40,000 in cash, from corporate funds, to FCRP sometime between March 28, 1972, and April 7, 1972.

In a staff interview, Harding Lawrence, chairman of the board, stated that on March 1, 1972, in the presence of Daniel Hofgren, vice chairman of FCRP, he made an unsolicited \$10,000 cash contribution to Maurice Stans. Lawrence identified the source of this contribution as \$5,000 from his personal funds and \$5,000 from the personal funds of C. Edward Acker, the president of Braniff. Lawrence said Stans thanked him for the contribution, but stated that he felt Braniff executives could do more because the company was doing much better than the rest of the industry. Stans suggested that a donation in the neighborhood of \$100,000 would be more appropriate. Lawrence told Stans he would see what could be done.

Lawrence ultimately decided that Braniff would contribute \$40,000. Because he was to be out of the country until just prior to the April 7, 1972, deadline and because of the need to make the contribution before that date in order to avoid disclosure, Lawrence delegated the task of securing funds to a group of Braniff executives. The group, consisting of R. H. Burck, Jr., vice president for public affairs; John Casey, executive vice president for operations and services; Charles South, vice president for Latin America; and Andrew J. Phalen (deceased), vice president and treasurer, devised a plan whereby Camilo Fabrega, Braniff's manager in Panama, would use Camfab, a Panamanian entity owned and controlled by Fabrega, as a conduit for obtaining the funds for the contribution. Phalen caused Braniff voucher, No. 083750,<sup>50</sup> dated March 29, 1972, to be issued approving the payment of \$40,000 to Camfab as an advance for "expenses and services." A Braniff check<sup>51</sup> was issued to Camfab and entered on Braniff's books as an account receivable of \$40,000 due from Camfab. The check was forwarded to Fabrega who endorsed it on behalf of Camfab and cashed it at a bank in Panama. He returned the proceeds, in U.S. currency, to Braniff officials in Dallas.<sup>52</sup> Subsequently, Lawrence, Acker, and Burck delivered the \$40,000 in cash to Stans.

The account receivable from the Panamanian entity to the corporation was paid off and liquidated in the following manner. A supply of special ticket stock was placed in the hands of Fabrega. Tickets written upon this ticket stock were sold at the ticket counters only by the

<sup>49</sup> 13 *Hearings* 5449.

<sup>50</sup> 13 *Hearings* 5810.

<sup>51</sup> 13 *Hearings* 5812.

<sup>52</sup> 13 *Hearings* 5484-85.

supervisor in the Braniff Panama office, generally for cash. If a customer wanted to pay by check, regular tickets were used. The receipts were not accounted for as ticket receipts, but were applied to the liquidation of the account receivable from the Panamanian entity.<sup>53</sup> Periodically, on his trips from Panama to the Dallas head office of Braniff, Fabrega would take several thousand dollars in cash and for delivery to Braniff. Fabrega described these deliveries as "unusual."

Since sales of the uncontrolled stock by December 1972 had reached only \$27,000 and Braniff wanted to liquidate the account by the end of the year, Fabrega obtained a personal loan from a Panamanian bank for the remaining \$13,000 in that month and furnished the corporation with a bank draft for \$13,000 out of these borrowed funds, thereby producing a total of \$40,000 which liquidated the account receivable. Fabrega testified that he subsequently reimbursed himself for the \$13,000 through the proceeds of additional sales of the uncontrolled ticket stock through early 1973.<sup>54</sup>

According to Braniff, no additional taxes were owed as a result of its corporate contribution. Revenues for the transportation of passengers are entered not on the basis of ticket sales, but on the basis of physical boardings of passengers with tickets. The fact that the uncontrolled ticket stock was sold and the receipts not accounted for as ticket sales did not affect the corporation's reported revenues or net income for 1972 in view of the timing of the transactions and Braniff's accounting procedures. Only those ticket sales outstanding as of July 31 of any year are taken into income. Since the money was returned to the company by its officers prior to July 31, 1973, no tax consequences resulted.<sup>55</sup>

Sometime in March 1972, Stans contacted Lawrence by phone and advised him that as a result of the suit brought by Common Cause it might become necessary to reveal the names of contributors, and requested a list of the names representing the contribution from Braniff. Shortly thereafter, Lawrence met Stans in New York and furnished him the names and addresses of nine individuals. Apparently not all of these people were made aware of the fact that their names were being furnished as a source for the Braniff contribution. On July 5, 1973, Kenneth Wells Parkinson, counsel for the Finance Committee To Re-Elect the President, forwarded a letter to Lawrence advising him that the committee may be required shortly to disclose the names which he had furnished to Stans. Since this created an immediate problem for Lawrence and Braniff, it was decided to contact the people named and request that they give their personal checks to repay Braniff the \$40,000 which had been contributed from unrecorded ticket sales.<sup>56</sup> This was done and Braniff credited the sum to an unearned passenger transportation account as reimbursement to Braniff. No request was made of FCRP to return the contribution.

On November 12, 1973, Lawrence and Braniff pleaded guilty to non-willful violations of section 610. Braniff was fined \$5,000 and Lawrence \$1,000.

<sup>53</sup> 13 *Hearings* 5485-86.

<sup>54</sup> 13 *Hearings* 5486-88.

<sup>55</sup> 13 *Hearings* 5489-93.

<sup>56</sup> Lawrence advised the committee staff in an interview that he always intended to reimburse Braniff for the contribution and that he resorted to the corporate contribution as a temporary device, because he was going to be out of the country immediately prior to April 7, 1972. He said that he believed that other Braniff officials had the same intention and that is why their names were submitted to Stans. Lawrence conceded, however, that neither he nor anyone else took steps to repay Braniff until July 1973 when he was contacted by Parkinson.

## E. THE CARNATION CO.

The Carnation Co. has acknowledged that a total of \$7,900 in corporate funds was used in making two contributions to President Nixon's 1972 reelection campaign. Although company executives have conceded that they were under no pressure, implicit or otherwise, they felt that the Presidential candidate preferred by a majority of the company's executives should be supported by a modest contribution from the company. This philosophy, company officials now say, has been rejected.

The first contribution, \$2,900, was made in June 1972, to the Finance Committee To Re-Elect the President. The solicitation was in the form of a mass-mailing letter, bearing the facsimile signature of Maurice Stans, which went to S. A. Halgren, senior vice president of Carnation, and at least one other Carnation executive.

The second contribution, \$5,000, was solicited by a Los Angeles civic leader who is the executive officer of a local retailing concern, who contacted H. Everett Olson, chairman of the board of directors of Carnation, by personal letter or by telephone, requesting him to buy 10 \$1,000 tickets to a Nixon fundraising dinner sponsored by the Southern California Presidential Committee, to be held in September 1972. It was finally decided that only five tickets would be purchased for the dinner.

Both the \$2,900 and the \$5,000 contributions were made by personal checks of Carnation executives, payable respectively to the Finance Committee To Re-Elect the President and the Southern California Presidential Dinner Committee. The executives were then reimbursed in cash by Halgren. According to Carnation, the personal checks of the executives were written by them with the expectation of reimbursement. Halgren obtained the cash for the foregoing reimbursements from corporate funds by charging the \$7,900 on the books as a travel expense to a transportation expense account.

On December 19, 1973, the Carnation Co. and Olson pleaded guilty in U.S. district court to violation of 18 U.S.C. 610 by consenting to the corporate contribution. The company was fined \$5,000 and Mr. Olson \$1,000.

## F. DIAMOND INTERNATIONAL CORP.

The Diamond International Corp. made contributions from corporate funds to two Presidential candidates, Richard M. Nixon and Edmund S. Muskie, during the 1972 campaign.

The contribution to the Nixon campaign came as a result of the solicitation of Raphael Dubrowin, vice president of public affairs for Diamond International, by Vincent F. DeCain, a former Diamond employee who was then deputy assistant secretary of transportation. Dubrowin, with the approval of Richard J. Walters, chief executive officer, president and chairman of the board of Diamond International, had two checks drawn on Diamond's corporate account for \$2,500 each. Both checks, the first dated February 23, 1972, and the second dated March 27, 1972, were made payable to the First National City Bank of New York. The bank in turn issued two \$2,500 treasurer's checks to the Effective Government Committee of the Finance Committee for the Re-Election of the President.



A \$1,000 contribution was made to Senator Muskie's campaign on December 14, 1971, based on a letter from Governor Curtis of Maine and a followup letter from Gus Clough, a business acquaintance and the public relations director of a Maine paper company, further soliciting funds for Senator Muskie. Mr. Dubrowin, in a telephonic interview with staff investigators, said a major consideration for making this contribution was that Diamond International had business dealings with the State of Maine. The mechanics of the transaction were essentially the same as in the Nixon contribution.

On March 7, 1974, Diamond Corp. and Dubrowin entered guilty pleas to violations of 18 U.S.C. 610 in connection with the above illegal corporate contributions. The corporation was fined \$5,000 and Dubrowin \$1,000.

#### G. GOODYEAR TIRE & RUBBER CO.

Goodyear Tire & Rubber Co., prior to April 7, 1972, contributed \$40,000 in cash to the Finance Committee for the Re-Election of the President. Russell DeYoung, chairman of the board of directors and chief executive officer of Goodyear Tire & Rubber Co., stated that the contribution originated in a conversation with Maurice Stans on or about February 16 or 17, 1972, in Washington, D.C. Stans told DeYoung that he would be contacting him about a contribution to the Finance Committee for the Re-Election of the President. In public testimony, DeYoung stated:

There was some mention of making a contribution prior to April 7 in order that it would not have to be publicly reported \* \* \* I discussed the matter with Mr. Arden Firestone, vice president of Goodyear. As a result of that discussion, Mr. Firestone, on March 9, delivered \$20,000 in cash to Mr. Stans in Washington, D.C. I did not attend that meeting, but was later informed that Mr. Stans did not ask, and was not told, the source of the funds; Mr. Stans said he had hoped for a contribution in the range of \$50,000, but he did not state or imply that any pressure would be brought if a larger contribution was not forthcoming.

It was decided that, in the light of Mr. Stans' reaction, an additional contribution would be made. An additional \$20,000 in cash was turned over to Mr. Stans by Mr. Firestone at a second meeting in Washington on March 14. On this occasion, two personal checks, one from my wife in the amount of \$2,000 and the other from me in the amount of \$3,000, were also delivered to Mr. Stans. I did not attend that meeting either, but understand that, as on the March 9 occasion, there was no discussion with Mr. Stans as to the sources of the contribution.<sup>57</sup>

DeYoung explained the source of the funds:

The cash used in making the contribution came from volume discounts from suppliers of Goodyear's foreign subsidiaries. Such amounts were transferred to the United States through normal banking channels from an account maintained in Switzerland. I was never personally involved in the

<sup>57</sup> 13 *Hearings* 5522.

handling of these discounts. I am advised, however, that for a period of time prior to 1967, certain of our European suppliers were directed to deposit volume discounts in an account in a Zurich bank designated "Goyeda," standing for Goodyear deposit account. From time to time amounts were withdrawn from this account and kept under the control and custody of an officer of the company in Akron. No discounts were channeled into this account after 1967 when a new financial officer, B. M. Robertson, took over. The account itself was finally terminated in 1970. There is no longer any cash from this source in the custody of any company officials. The amount used in making the contribution was never entered on the company's books as income, and it was never taken on its tax return as a deductible expense.<sup>58</sup>

Mr. DeYoung explained the next contact with Stans:

In April of 1973, Mr. Stans asked for the names of individuals who had made the \$40,000 contribution in March of 1972. He stated that it was highly probable that the finance committee would eventually have to make public a list of the individual contributors. He said that the committee records merely showed that the contribution came from Goodyear employees.

We first tried to get the money back, but Mr. Stans said that was not possible. After further discussions within the company, we decided to give Mr. Stans the names of eight Goodyear executives, including my own, and divide the \$40,000 among the eight. This was done with the approval of the executives but with a clear understanding that they would not at any time become involved in any perjury.

We gave the names because we thought the company might be harmed by the publicity if it became known that Goodyear had, as a company, made a sizable contribution to either political party.

Mr. DORSEN. Did you personally ask the company executives if their names could be used in response to the request by Mr. Stans?

Mr. DEYOUNG. I did.

Mr. DORSEN. And did each of the employees agree to have his name utilized in this connection?

Mr. DEYOUNG. They did, on the basis that they would not become involved.<sup>59</sup>

\* \* \* \* \*

Senator ERVIN. So he [Stans] was kindly supplied with the names of eight men, corporate executives, who allegedly, or rather were posing as donors of this money when they had not given a single penny of it, is that not correct?

Mr. DEYOUNG. That is correct.

Senator ERVIN. So was that intended to—who was that intended to deceive? Somebody.

Mr. DEYOUNG. Well, really, it was a delaying action.

<sup>58</sup> *Ibid.*

<sup>59</sup> 13 *Hearings* 5525.

Senator ERVIN. A delaying action? That was given to Mr. Stans so he could tell the court in the Common Cause suit that?

Mr. DEYOUNG. No, when we were asked to confirm it we denied that.

Senator ERVIN. I know. But as I get it, you say these men would not have gone and committed perjury. That had they been summoned and given, required to take an oath telling the truth they would not have committed perjury but they were willing to have a false representation made that was not under oath, is that not so?

Mr. DEYOUNG. That is correct.<sup>60</sup>

Later, when Goodyear received a letter from CRP attorney Kenneth Parkinson asking for a confirmation of the information supplied to Stans, Firestone wrote him stating that they could not confirm the contribution as described. Shortly thereafter, Goodyear publicly described the illegal source of the contributions and asked for and received the return of the contributions.

DeYoung explained why cash was used for the contribution:

Senator ERVIN. Now, I will have to be frank to say I don't find your statement, the reason that this company sent this money in two payments of cash, very convincing. I spent a large part of my life as a lawyer, and I did much work for corporations and I have searched my memory in vain since hearing your testimony and I don't recall a single time that a corporation ever paid me a single penny in compensation for legal services except by check. So, wasn't there some reason different than the fact that you had cash that you paid in cash?

Mr. DEYOUNG. Cash has a tendency to get lost.

Senator ERVIN. It particularly has a tendency to get lost from view, doesn't it, as compared to a check?

Mr. DEYOUNG. That's right.

Senator ERVIN. So I would find it more convincing if you had stated that Goodyear sent this \$40,000 of corporate funds down here by cash in order to conceal the fact that it was making a corporate donation. Now, is that not a fact?

Mr. DEYOUNG. That is right.

Senator ERVIN. Yes, fine. And they could have transmitted it down here—if it would have been a legitimate transaction they would have transmitted it down here—in all probability by either sending a letter down here with a check in it and an 8-cent stamp instead of paying the transportation cost of the vice president, to and fro, four times between Washington and England, would it not? Would that not have been the normal thing to do? Either that or let the bank in England or whatever other bank you had down here in Washington—let them issue a check for it?

Mr. DEYOUNG. That is normal business practice, yes.<sup>61</sup>

Mr. DeYoung conceded that publicity motivated the disclosure of the corporate contribution to the Special Prosecutor:

<sup>60</sup> 13 *Hearings* 5529.

<sup>61</sup> 13 *Hearings* 5528-29.

Senator WEICKER. Did you step forward and volunteer information to the prosecutor after American Airlines did it? What motivated you to step forward at all?

Mr. DEYOUNG. Because of the publicity we were getting and we found out then that it was very, very serious, what we had done.

Senator WEICKER. Well, the degree of seriousness didn't change. It was serious when you did it. So it was a matter of being discovered or the publicity that was of concern to you?

Mr. DEYOUNG. That is right.

Senator WEICKER. Has any judgment been passed on Goodyear?

Mr. DEYOUNG. There has.

Senator WEICKER. What does that consist of?

Mr. DEYOUNG. October 17, 1973, the Special Watergate Prosecutor staff filed in the U.S. District Court for the Northern District of Ohio an information which charged both the company and me with having committed misdemeanors in violation of section 610 of title 18, United States Code, by making and consenting to a \$40,000 contribution in connection with the Presidential election of 1972. The company and I pleaded guilty to the charges. Maximum fines which were assessed by the court have been paid, both by the corporation and myself.

Senator WEICKER. What fines were assessed?

Mr. DEYOUNG. \$5,000—the maximum fine was \$5,000 to the company and \$1,000 to me.

Senator WEICKER. And the shareholders all will be sharing in the paying of the \$5,000 fine, is that right?

Mr. DEYOUNG. What do you mean?

Senator WEICKER. Well, the \$5,000 fine was paid by the corporation, so in effect, all the shareholders are involved in paying the fine, is that right?

Mr. DEYOUNG. That is correct.

Senator WEICKER. Even though the shareholders weren't consulted as to whether or not they thought the reelection of the President was in the best interest of the country. Nevertheless, they are going to pay for the actions of you and Mr. Firestone. Is that right?

Mr. DEYOUNG. Well, they pay for all actions of the corporate decisions that are made.

Senator WEICKER. Well, I would say it is a pretty sorry day for Goodyear, wouldn't you?

Mr. DEYOUNG. Not necessarily.

Senator WEICKER. Of course, again, it is only a matter of publicity, not of principle, that had you step forward and has you before this committee, is that correct?

Mr. DEYOUNG. That is probably correct.<sup>62</sup>

<sup>62</sup> 13 *Hearings* 5529-30.

## H. GULF OIL CORP.

Gulf Oil Corp., a company with annual revenue of \$9 billion, prior to April 7, 1972, made cash contributions of \$100,000 for the reelection of President Nixon, and \$10,000 to Senator Jackson and \$15,000 to Congressman Mills, respectively, for their campaign in seeking the nomination as the Democratic candidate for President. Claude C. Wild, Jr., vice president for Government relations of Gulf Oil Corp., stated:

[I]n early January or February [1971], a Mr. Lee Nunn came to my office or visited and informed me that there was being set up a Committee To Re-Elect the President and that they would handle the campaign outside of the normal Republican channel which he meant the Republican National Committee, and Mr. Nunn was hopeful that I could arrange to get \$100,000 in their hands one way or the other. He suggested if I wanted some verification of his legitimacy of his role in the operation because this was a new role for him—he had been up here, as you know, with the Republican Senatorial Campaign Committee for any number of years, and Mr. Nunn suggested that if I wanted verification for his participation in this role, that he suggested that I contact Mr. Mitchell because he was going to be active in the strategy part of the campaign and Mr. Stans was going to handle the finances.<sup>63</sup>

Wild related that he and a friend, Jack Mills, met in the Justice Department with then Attorney General Mitchell, who "indicated that this was an operation such as the Committee To Re-Elect the President, that Mr. Nunn was going to participate in that, that he had full confidence in Mr. Nunn, and that is about it." Wild was aware of the importance of the April 7 date, "the day when the disclosure law became effective."<sup>64</sup>

Wild stated that, without consulting anyone at Gulf, he decided to give \$50,000 and that "I had to find a place for the money—where the money was, so I called the controller of one of our companies in the Bahamas and told him I needed \$50,000 and he brought it to me."<sup>65</sup> He explained that the man's name was William Viglia and that the company was the Bahamas Exploration, Ltd., a subsidiary of Gulf which is no longer in existence, and that the \$50,000 was charged to miscellaneous expense account. Wild related that Viglia delivered the \$50,000 in cash to him and that in April or May 1971, Nunn was given the cash in Wild's office. Wild stated that he was contacted again by Nunn in January 1972 for an additional contribution:

Mr. WILD. Well, I think he came to my office again and indicated that this would be a very expensive campaign and that they wanted more money and he would like another \$50,000, making a total of \$100,000, the implication being to

<sup>63</sup> 13 *Hearings* 5461.

<sup>64</sup> 13 *Hearings* 5462, 5467.

<sup>65</sup> 13 *Hearings* 5462.

me, and I cannot remember whether he made that exact statement or not, but the implication was that this was kind of a quota that they were expecting from large corporations.

Mr. DORSEN. What was the result of that meeting?

Mr. WILD. Well, he suggested that I might like to visit with Mr. Stans about this, which I did. He set the appointment up. This was—not my records but their records indicated that it was the 4th of February, which was after—probably while Mr. Stans was still Secretary of Commerce, but after he had announced he was going to resign. I met with him for about 15 minutes.

Mr. DORSEN. What occurred at this meeting? First of all, who was present?

Mr. WILD. Just Mr. Stans and myself.

Mr. DORSEN. And what was said?

Mr. WILD. Well, he indicated that he was hopeful of obtaining \$100,000 from the large American corporations. Ours being one of the top 10, he hoped that we would participate. He knew of the previous \$50,000, and he said he would like \$50,000.

Mr. DORSEN. What did you tell Mr. Stans?

Mr. WILD. Well, I told him I would see about it.

Mr. DORSEN. What did you do after that?

Mr. WILD. I contemplated it a little further, and I guess I made another mistake and said, "All right, I will do it." So I called Mr. Viglia again and got the money, delivered it personally to Mr. Stans. By that time, he had moved to his office in the Committee To Re-Elect the President.

Mr. DORSEN. Did you deliver the money to Mr. Stans?

Mr. WILD. I did, in person.<sup>66</sup>

Wild was asked why he considered it necessary to make such a large contribution:

Senator ERVIN. You said you decided it would be in the best interests of Gulf to comply with the request made by Mr. Nunn after being requested to make a contribution. How did you figure that?

Mr. WILD. That was the decision I arrived at.

Senator ERVIN. Yes. How did you figure that the best interests of Gulf would be promoted by making a contribution?

Mr. WILD. Well, Senator, you have to make decisions in the context of the situation that existed at the time. I arrived at the decision that if we were going to be treated in an equal way, I knew other corporations were going to—a big effort was going to be made, and if there was not some participation on my part or our part, we may be, you know—whether you call it a blacklist or bottom of the totem pole, I would just like to answer my telephone calls once in a while and that may not happen sometimes.<sup>67</sup>

Senator Montoya questioned Wild about the meaning of the term "pressure" used by Gulf in a press release<sup>68</sup> issued at the time the company admitted making its illegal contributions:

<sup>66</sup> 13 *Hearings* 5463-64.

<sup>67</sup> 13 *Hearings* 5471.

<sup>68</sup> 13 *Hearings* 5808.

Senator MONTROYA. I will quote from this press release as follows—third paragraph:

"These contributions were made in response to persistent requests to Gulf's Washington representative, Claude C. Wild, Jr., from representatives of the Finance Committee To Re-Elect the President. The company was not seeking any special favors and did not have any corporate activity under Government scrutiny.

"There was enormous pressure in the political system, and the fact that others apparently also yielded is evidence of this. This pressure was intense \* \* \*."

Now, was Gulf Corp. correct in making this evaluation of the kind of pressure that was applied?

Mr. WILD. Well, we were talking in the release about pressure in the whole political system.

Senator MONTROYA. How would they know about the other pressures and not know about the pressure that was applied to you?

Mr. WILD. This was written after they found out about the pressures. I did not disclose any of this information to anyone prior to—

Senator MONTROYA. Well, were they not directing the context of the statement to the pressure that was applied as a basis for their corporate funds being used in the contribution? Was that not the main thrust of this release?

Mr. WILD. The first thrust of the release, I think, was that there was pressure in the system on me as a representative of the corporation.

Senator MONTROYA. Yes. Now, what kind of intense pressure was applied to you by these individuals? Let us start with Mr. Nunn, and then let us continue with Mr. Stans.

Mr. WILD. I guess the wording here "intense pressure," is subject to various interpretations, but in my days, I considered it considerable pressure when two Cabinet officers and an agent of one of the committees that was handling the election asking me on various occasions that I have enumerated, the times that I have enumerated; asking me for funds—that is just a little bit different than somebody collecting for the Boy Scouts.

Senator MONTROYA. In other words, having been around Washington for quite a bit, you read the message.

Mr. WILD. Well, I thought I had a message.<sup>69</sup>

Responding to questions from Senator Ervin, Wild testified:

Senator ERVIN. Mr. Wild, don't you think it is very unfortunate that we have so much regulation of business in America that business necessarily is susceptible of being coerced by people in authority to make a campaign contribution which, if left to themselves, they certainly would not make?

Mr. WILD. I could not have said it better.

Senator ERVIN. Don't you agree that Congress should give serious consideration to making it a criminal offense for any

<sup>69</sup> 13 Hearings 5479.

official clothed with great governmental power to solicit or receive a campaign contribution?

Mr. WILD. Senator, I don't think I would be prepared to go quite that far. There is certainly the right of an individual to do what he pleases with his money.

Senator ERVIN. I agree with you on that. But this is a different question, I think. Here, for example, is an Attorney General of the United States who has so much power and in large part, discretionary power over American business——

Mr. WILD. That is right.

Senator ERVIN. And likewise the Secretary of Commerce, which in many cases is discretionary in nature, that when he requests a campaign fund, it is almost a coercive practice, isn't it? It is quite close to is, isn't it?

Mr. WILD. Well, that is the way it came through by brain, anyway.<sup>70</sup>

Mr. Wild stated that sometime in the spring of 1973, he met with Nunn, who informed him it may be necessary to disclose the names of the pre-April 7 contributors and that Wild should be prepared to give names. Wild testified as to what happened next:

Then Secretary Stans called me, and wanted to know how the \$100,000 contribution should be—he expressed again a concern at this matter, he regretted it very much because these contributions were supposed to be made where no disclosure would be made. He was very apologetic and so forth. But at the same time, he said, it looks like we are going to have to make a listing of these contributions made prior to April 7. He asked me how I wanted it listed. I told him that, well, I didn't have any names to give him, so I said Claude Wild & Associates.<sup>71</sup>

Stans called Wild a second time, and Wild gave him the same response:

Mr. DORSEN. Were you thereafter contacted with respect to this information again?

Mr. WILD. The next contact I had was in a letter dated July 9, 1973, from Mr. Kenneth Parkinson, who was the counsel for the finance committee, asking me to verify the fact that \$100,000 contribution had been made and the proper showing on their listing should be employees of Gulf Oil Co., Mr. and Mrs. Claude Wild. It was at that point that I thought things were sufficiently of a serious nature that I arranged a meeting with the chairman of the Gulf Oil Co., Mr. Dorsey, and discussed this matter.

Then we obtained counsel in a short period of time, made a disclosure, voluntary disclosure, to the then Cox committee, and requested our money back from the Committee To Re-Elect the President, which we did obtain.<sup>72</sup>

In connection with the corporate contributions made to Senator Jackson, Wild gave the following testimony:

<sup>70</sup> 13 *Hearings* 5474.

<sup>71</sup> 13 *Hearings* 5466.

<sup>72</sup> 13 *Hearings* 5466.



As I recall the time frame, it was in early January, could have been February of 1972, I was contacted by Mr. William Brawley, Bill Brawley, who is on the staff of Senator Jackson. He called me two or three times. My intuition told me what he was calling about. Finally, I agreed to meet with—he wanted to arrange a meeting with me with Senator Jackson. Subsequently, that meeting did take place. I met with Senator Jackson and his assistant, Sterling Munro.

At that time, Senator Jackson indicated that he was having a difficult time raising money, and this was well documented, at least by the press, and he was hopeful that I would be helpful. I told him I would see what I could do.

What I did was arrange, through the same sources, to get \$10,000 and delivered it to Sterling Munro. That is the last I saw of Senator Jackson or Sterling Munro.

Mr. DORSEN. Is it your testimony that Mr. Brawley called you and contacted you for the contribution?

Mr. WILD. That is my testimony.

Mr. DORSEN. And is it your testimony that the subject of money was discussed at the meeting that you just described?

Mr. WILD. No specific sum, but when you say, "a politician says to someone, I hope you will be helpful," you kind of understand what that means.

Mr. DORSEN. But no sum was discussed at that meeting?

Mr. WILD. No sum was discussed.<sup>73</sup>

Gulf Oil Co. and Wild were fined \$5,000 and \$1,000, respectively, for making illegal corporate contributions to the Presidential campaign of President Nixon.<sup>74</sup>

### I. THE HERTZ CORP.

In the fall of 1971, Donald Petrie, a former president of Hertz International Division, retired from a New York investment firm and became associated as a volunteer worker with the Washington, D.C., campaign office of Senator Edmund Muskie. In a committee interview Petrie stated that, at the request of Deputy Campaign Chairman George Mitchell, he had made arrangements with Hertz and Avis for the leasing of rental cars to key Muskie campaign workers.

Petrie stated that the reason he sought an accommodation from the car rental companies was the fact that the key Muskie campaign workers were not being afforded the usual discount rate in renting cars, were experiencing difficulty in obtaining reservations for rental cars, and, because of the lack of credit cards, were being required to tie up inordinate amounts of cash for the purpose of making rental car deposits.

Petrie stated that he called Robert A. Smalley, then president of the Hertz Corp., and requested special credit cards by which rental cars might be made available with the billing to be held in abeyance until the primary campaigns were ended. Petrie stated that he volunteered to be a guarantor of the rental car bills.

<sup>73</sup> 13 *Hearings* 5464.

<sup>74</sup> A contribution to the campaign of Congressman Mills is discussed elsewhere in this Report.

Smalley (now retired from the Hertz Corp.), in his appearance before the committee on November 20, 1973, described the telephone conversation with Petrie as being one in which Petrie asked if Hertz could make available cars free of charge for the use of the Muskie campaign. Smalley stated that he responded to Petrie's inquiry and told him that he could not provide free rental cars and that Petrie, as a former Hertz corporate officer, should know that to grant such a request would be in violation of company policy. Smalley further testified that Petrie neither challenged his response nor gave any indication that his request had been misunderstood. Smalley stated that he referred Petrie to Sol Edidin, the vice president and general counsel of the Hertz Corp., and concurrently advised Edidin to assist Petrie with his need for rental cars. Smalley stated that he did not provide Edidin with any specific instructions, nor did he relate to Edidin his understanding of the telephone conversation with Petrie.<sup>75</sup> At this point it appears that Smalley and Petrie discontinued any participation in the matter and were not advised of any of the subsequent events.

Sol M. Edidin, who was granted immunity on November 13, 1973, testified before the committee that upon the general instructions of the Hertz Corp. president, Smalley, he did provide rental cars to selected Muskie campaign workers, the names having been furnished by Petrie. Edidin testified that he made rental car reservations through his office and that the bills for these car rentals incurred by the designated Muskie campaign workers were sent directly to his office. He stated: "I accumulated the bills anticipating that eventually they would be written off by Hertz."<sup>76</sup>

By May of 1972, Edidin was holding car rental bills which, to the best of his recollection, aggregated about \$8,000 or \$9,000, although the amount billed was only \$4,103.29.

Anticipating that he would terminate his employment with the Hertz Corp. on or about June 1, 1972, Mr. Edidin addressed himself to the problem of disposing of the Muskie car rental bills. He stated as follows:

Shortly before leaving Hertz in May 1972 and in anticipation of my departure, I attempted to have the accumulated bills in my possession written off. By this time Mr. Smalley was no longer with Hertz. I went to the controller of Hertz and asked that the bills be written off. While I do not recall specifically my conversation with the controller, I believe that I indicated generally to him that the bills were of a political nature. The controller said that to write them off might cause the auditors of Hertz' parent corporation, RCA, to question him about them. Accordingly, he refused to write the bills off without specific direction of the chief executive of Hertz.

Ronald Perman was then chief executive. I went to Mr. Perman and told him about the rentals that had made on the basis of Mr. Smalley's instructions to me. I told him the amount of the accumulated bills and that the controller would not write them off without Mr. Perman's authorization.

<sup>75</sup> 25 *Hearings* 12325-32.

<sup>76</sup> *Id.* at 12254.

Mr. Perman, an accountant himself, recognized the controller's reluctance to write off the bills, but he also considered them to be an obligation of Hertz. Since the bills could not be written off, it was necessary for Hertz to take care of their payment in some way. Mr. Perman authorized me to have Hertz provide funds to outside lawyers to enable them to make contributions to the Muskie campaign committee in the total amount of the outstanding bills.<sup>77</sup>

Eddidin testified that he contacted six New York attorneys and one Chicago attorney and asked each of them to send him a contribution for the Muskie campaign. In return, he would approve the payment of their bills for legal services in an amount sufficient to cover, not only the amount of their contribution, but an amount 25 to 30 percent more than the amount of their contribution for the purpose of reimbursing them for their income tax obligation.<sup>78</sup> Eddidin stated that seven attorneys participated, individually or through their partner, by sending contributions in amounts ranging from \$300 to \$1,000 for a total of \$4,103.29. According to Eddidin, the individuals for whom he approved the payment of bills for which no services had been performed were:

	<i>Amount of contribution</i>
Richard M. Ticktin, Esq.	
Edgar W. Malkin, Esq., 477 Madison Ave., New York, N.Y. 10022	\$1, 000
Barton D. Eaton, Esq., 11 E. 44th St., Suite 1100, New York, N.Y. 10017	1, 000
John L. Murray, Esq., Murray and Mewhinney, P. C., 235 Mamaroneck Ave., White Plains, N.Y. 10605	300
Matthew L. Lifflander, Esq., c/o Weiss Bronston Rosenthal Heller & Schwartzman, 295 Madison Ave., New York, N.Y. 10017	1, 000
Larsh B. Mewhinney, Esq., Murray and Mewhinney, P. C., 235 Mamaroneck Ave., White Plains, N.Y. 10605	300
Subtotal	3, 600
Attorney as to whom no evidence of reimbursement was determined	500
Total <sup>79</sup>	4, 100

Though uncertain in his testimony concerning the exact dates and amounts of the bills he approved for payment to the participating attorneys, Eddidin did identify certain bills and vouchers which he testified bore the characteristics of bills paid for which no services were performed. Each of the following bills identified by Eddidin bore his signature in approval of payment, the initials of Hertz board chairman, R. J. Perman, were within the pertinent time frame, and were in an amount compatible with his recollection regarding the identity of the attorney from whom he solicited a contribution.

Name	Amount	Date
Edgar W. Malkin and Richard M. Ticktin (law partners)	\$1, 500	May 17, 1972
Matthew L. Lifflander	1, 500	May 18, 1972
Barton D. Eaton <sup>80</sup>	950	May 22, 1972
John L. Murray and Larsh B. Mewhinney (law partners)	900	May 19, 1972

<sup>77</sup> 25 *Hearings* 11254-55.

<sup>78</sup> *Id.* at 12241-42, 12246.

<sup>79</sup> *Id.* at 12244-45, 12333-35.

<sup>80</sup> Eaton testified that an additional bill in the amount of \$500 was approved, for a total of \$1,450.

In an attempt to determine that there was a viable Muskie committee to which the solicited contributions might be sent, Edidin testified that:

(I) spoke with Matthew Lifflander, a former employee of Hertz, then an attorney in private practice, who was active in the Muskie campaign, and asked him to arrange that the campaign committee would utilize any contributions provided to pay the outstanding bills.<sup>81</sup>

Edidin testified that he collected the contributions from the attorneys and that the checks were made payable to the name or names of Muskie committees furnished by Lifflander. He gave the checks which totaled \$3,100 to Matthew Lifflander in May of 1972 and, at the same time, asked Lifflander if he would contribute \$1,000 so that the full amount of the outstanding Muskie car rental bills could be paid. Subsequently, Lifflander did provide to Edidin a check from a Washington, D.C. Muskie committee payable to the Hertz Corp. in the amount of \$4,103.29. This check was dated May 30, 1972. Edidin asserts that the difference between the \$3,100 he gave Lifflander and the \$4,103.29 represents Lifflander's contribution, although Edidin has no personal knowledge regarding how Lifflander's contribution was made.<sup>82</sup>

Testifying before the committee on November 19, 1973, Mr. Lifflander stated that not only did he not submit a bill to the Hertz Corp. for which no service was performed but that he did not make any contribution subsequent to April 20, 1972, well before the plan described by Edidin was formulated. He states that he told Edidin in May of 1972 that he would arrange for his \$1,000 contribution, made on April 20, 1972, to be allocated to the payment of the Muskie car rental bills and that he made no further contribution as a result of his contact with Edidin. When asked about a report of the Muskie committee signed by Lifflander and filed with the GAO which lists him as making a \$1,000 contribution on June 7, 1972, Lifflander said that the entry was a clerical error.

In his testimony, Lifflander also stated that in the spring of 1972, Sol M. Edidin, then vice president and general counsel with Hertz, called and asked him for assistance in collecting from the Muskie Campaign Committee money to pay the Hertz car rental bills. Lifflander referred Edidin to Stanley Goldstein, who was a volunteer worker with the Muskie organization, handling the settlement of debts.<sup>83</sup> Subsequently, Edidin contacted Lifflander again and told him that he had an agreement with the Muskie people in Washington that they would pay the Hertz car rental bills if he (Edidin) succeeded in raising contributions in an equal amount to the outstanding bills.

Shortly thereafter (May of 1972) Lifflander met with Edidin in his office and received from Edidin several checks payable to a Muskie committee. At this meeting, Edidin told him that he was about \$1,000 short and requested that Lifflander contribute \$1,000 to make up the difference. Lifflander states that he told Edidin he had just contributed \$1,000 in April of 1972 and that, in view of his recent contribution, he

<sup>81</sup> 25 *Hearings* 12255.

<sup>82</sup> There is no evidence in the possession of the committee that Lifflander was involved in the initial formation of the alleged plan to use corporate resources or that he spoke to the other attorneys who allegedly participated in the plan.

<sup>83</sup> 25 *Hearings* 12263.

would ask the Muskie people to allocate that \$1,000 contribution to the payment of the Hertz car rental bills.

Lifflander said it was "probably" on the same occasion that he received the Muskie contribution checks from Edidin, that he discussed and received approval from Edidin for the payment of a legal bill in the amount of \$1,500. On June 1, 1972, Lifflander transmitted to Hertz a Muskie committee check in the amount of \$4,103.29.

Lifflander denied any participation other than receiving the contributions from Sol Edidin and subsequently furnishing a Muskie committee check in payment to Hertz.

Lifflander did submit a legal bill to the Hertz Corp. in May of 1972. The amount of this bill was \$1,500. The explanation furnished by Lifflander for this bill was that he was under contract to the Hertz Corp. to provide a study on Hertz franchising. This contract was entered into in the fall of 1971; and, as he began his work in 1972, he realized that an independent section with regard to the laws applicable to franchises should be included in the study. On the day that he met with Edidin to pick up the checks payable to the Muskie committees, he explained to Edidin the need for this legal section in the study he was doing. According to Lifflander, Edidin agreed with him that a proper fee for this additional work would be \$1,500. Lifflander states he wrote a 43-page legal section, a copy of which has been provided to the committee.

Lifflander denies that this \$1,500 bill submitted to Hertz in May of 1972 is in any way connected with, nor was the money used for, the subsequent payment of car rental bills by the Muskie committee.<sup>84</sup>

Gerald Shapiro, president of Hertz, testified before the committee that in late 1971 he had engaged Matthew Lifflander to prepare a general business report on franchising for the Hertz Corp. He stated that the payment for the study was authorized by him in a total amount of \$5,000—one third of which was to be paid in advance, and the remaining two thirds upon completion of the study.

Shapiro stated that no additional payments were authorized by him and that, in his opinion, it would have been unusual for any Hertz official who was not a party to the original contract to have authorized additional payments to Lifflander.<sup>85</sup>

Barton D. Eaton, a New York attorney who was alleged by Sol Edidin to have been involved in the plan to raise campaign contributions for the purpose of paying Muskie car rental bills, testified before the committee under grant of immunity on December 4, 1973.

Eaton corroborated the allegation made by Edidin that he had made a contribution in the amount of \$1,000 through Edidin to the "Muskie Election Committee." He stated that he had contributed a \$500 check, dated May 19, 1972, and that at his (Eaton's) request, his wife also contributed a \$500 check to the Muskie Election Committee, and that the date of her check was May 18, 1972. Eaton stated that, though his recollection was unclear, he knows that he submitted bills to the Hertz Corp. in a total amount of \$1,450—\$1,000 of which was to reimburse him for his campaign contribution, and \$450 of which would be allocated for his income tax liability. Eaton stated that it was his recollection that, rather than submitting one bill in the amount of \$1,450

<sup>84</sup> 25 *Hearings* 12377-97.

<sup>85</sup> *Id.* at 12398-99.

he had submitted two bills, one for \$950 and the other for \$500. Eaton stated that he had no specific recollection with regard to the delivery of the two \$500 contributions; however, he believes that he delivered them directly to Edidin's office and had given them to Edidin or to his secretary.

The contribution checks supplied to Edidin by the Eatons were made payable to the "Muskie Election Committee," as were all of the other checks. These checks were deposited to the account of the "Muskie Campaign Committee," as evidenced by both the official reports submitted to the U.S. General Accounting Office and by the letters dated June 1, 1972, which Mr. Lifflander sent in acknowledgement of the contributions.

All of the contribution checks obtained by Edidin were made payable to the "Muskie Election Committee,"—albeit erroneously in the opinion of Lifflander—as was his \$1,000 check dated April 18, 1972. In connection with his \$1,000 contribution check dated April 18, 1972, to the "Muskie Election Committee," Lifflander stated:

You see, whatever committee name was used, I could put in any bank account. As indeed, my own check made out erroneously to Muskie Election Committee—and I found out today there was no such thing as a bank account committee—went into the Muskie for President.<sup>86</sup>

To demonstrate that he made no contribution in May or June of 1972, Lifflander submitted hundreds of financial documents relating to the Muskie campaign as well as his personal bank and other financial records.

An examination of the financial records provided the committee of the Muskie Campaign Finance Committee by Lifflander reflected no indication of a \$1,000 contribution by him and, in fact, no unidentified items equal to or totaling \$1,000. The only substantial items not attributed to specific contributors were a deposit of \$125 on May 11, 1972, and deposits of \$500 and \$100 on June 15, 1972. Lifflander also provided what he averred were all his bank records for his personal and law firm accounts during the relevant period. There was no check to any Muskie committee in May or June of 1972, and there were no checks payable to cash or other withdrawals that could be viewed as the source of cash for a \$1,000 contribution by him.

Matthew L. Lifflander submitted an affidavit dated April 19, 1974, with over 100 pages of exhibits in support of his position. Lifflander's affidavit notes that GAO reports attributed two contributions to him to the Muskie campaign: \$1,000 on April 20, 1972, and \$1,000 on June 7, 1972. He continues:

It was not until after my testimony before the Select Committee that I discovered I was listed on the GAO reports as having made two \$1,000 contributions to the Muskie for President campaign during the year 1972. That is on April 20, 1972, and on June 7, 1972. The entry for June 7, 1972, was not called to my attention either when I testified before the Select Committee or before the Internal Revenue Service.

*I want to take this opportunity to reiterate my categorical denial that I made any contribution to the Muskie campaign*

<sup>86</sup> 25 *Hearings* 12276.

during the year 1972, except for the contribution listed in my name for April 20, 1972.

This contribution was clearly made at least 1 month prior to my conversations with Mr. Edidin. It was made to the Muskie for President campaign committee located in Washington, D.C., and was mailed to the Washington campaign office. Indeed it was listed in the GAO reports rendered by the Muskie for President Washington campaign office.

*The second \$1,000 contribution which was allegedly made on June 7, 1972, was simply never made by me and its inclusion in the GAO report is in error.* The source of the information regarding this second contribution is the GAO reports rendered by the Muskie committee in New York State of which I was treasurer and which I signed. While my name appears in that report as having contributed \$1,000 on June 7, 1972, *the supporting bank and committee records clearly indicate that such a contribution was neither made nor received.* [Emphasis in original.]

On the subject of services provided by him to Hertz for the \$1,500 Lifflander stated:

When I testified before the Select Committee, I stated that when Mr. Edidin contacted me in May 1972, it was the first time that I learned that he was leaving Hertz at the end of that month. I, therefore, took the occasion of my meeting with him to discuss a professional matter on which I was working for the Hertz Corp.

In November 1971, I had been formally retained by the Hertz Corp. to do a consultant's study of the potential for expanding corporate franchising activities. This study was contracted for by a letter dated November 11, 1971, a copy of which was previously supplied to the committee. The fee I was to be paid for this study was in the amount of \$5,000 of which I was paid \$1,500 retainer on December 28, 1971. As this study proceeded during the fall of 1971, and the first half of 1972, it became obvious that in order to make the study complete, extensive legal research and analysis with regard to a survey of the existing laws affecting franchising in several States needed to be included in this study. As the letter agreement with the Hertz Corp. will indicate, no such legal analysis was agreed to at that time. This was so because the need for such legal research and analysis was not apparent to either me or Hertz when we originally entered into the contract. I, therefore, discussed with Mr. Edidin in his capacity as general counsel of the Hertz Corp., the need for additional compensation for me in order to complete the legal phase of this study. Mr. Edidin agreed that this was necessary and that an amount of \$1,500 would be fair compensation and that this sum be paid as an additional retainer.

Edward W. Malkin, an attorney referred to by Edidin as having made a reimbursed contribution of \$1,000, submitted the following statement to the committee concerning his alleged involvement:

I wish to advise the committee that, as to any moneys received by me from the Hertz Corp. in May 1972, I had no personal knowledge that the receipt thereof was part of any such arrangement. Accordingly, if such arrangement existed, I could not and did not knowingly participate in it.

Malkin's partner, Richard Ticktin, through his attorney, called to the attention of the committee that, "Mr. Ticktin is an attorney with an unblemished reputation in the community and at the bar, and to refer specifically to him in the report would undoubtedly have severe and potentially prejudicial after-effects upon him, his family and his career . . . [The] testimony, by various of the principals involved, is unclear, equivocal and contradictory."

John L. Murray and Larsh B. Mewhinney, law partners in White Plains, N.Y., each of whom was alleged to have made a \$300 contribution reimbursed by Hertz, submitted affidavits which recited that they left the Hertz Corp. to practice law early in 1973 and that Hertz has throughout been one of the firm's principal clients. Murray's affidavit continues:

Mr. Edidin has testified before this committee that in May 1972 he asked various attorneys, including Mr. Mewhinney and me, to contribute certain sums to the Muskie campaign committee. There is no dispute about that. The donations made by Mr. Mewhinney and me, and the manner in which they were made, are matters of record. They were personal donations in every sense. However, Mr. Edidin has further testified it was his intent that the attorneys he contacted would submit for his approval bills for services not actually rendered, as a means of obtaining reimbursement, and that he communicated this intent to the attorneys at the time. To the best of my recollection, no such intent or plan was communicated to me by Mr. Edidin or anyone else. I categorically deny the implication that I participated in any such scheme, and likewise deny that my firm ever submitted a bill for services not rendered to the Hertz Corp. or any other client.

5. Mr. Lifflander has testified before this committee with reference to a research project he had undertaken for Hertz, on which he was working at the time of these events. Mr. Lifflander's testimony as to his consultations with Mr. Mewhinney and me at about that same time, and to the services we rendered in connection with his final report on the subject to Hertz, is completely factual. Our daily time sheets, diary entries, expense reports and other office records, all contemporaneously made, fully substantiate Mr. Lifflander's testimony in this respect, and in fact provide further details, consistent in all respects with his testimony, that he was apparently unable to recall.

6. In summary, I have never been reimbursed for my contribution to the 1972 Muskie campaign in any form or manner whatsoever, and never sought or expected to be reimbursed. My firm has never submitted a bill to or received payment from the Hertz Corp., or any other person or entity, for other than bona fide professional services actually ren-



dered, and expenses and disbursements actually incurred in the client's behalf.

Mewhinney's affidavit substantially adopts the affidavit of Murray:

2. The facts recited by Mr. Murray are correct to my personal knowledge and if I were called as a witness, I would so testify. I have no direct personal knowledge, however, of what was said by Mr. Murray and Mr. Edidin in their telephone conversation initiated by Mr. Edidin and suggesting we make a political contribution.

#### J. LEHIGH VALLEY COOPERATIVE FARMERS, INC.

Lehigh Valley Cooperative Farmers, Inc. ("Lehigh Valley"), a corporation based in Allentown, Pa., representing nearly 1,000 dairymen in Pennsylvania, New Jersey and Maryland, made a \$50,000 political contribution from its corporate funds in April 1972 to the President's campaign in exchange for the appearance of Agriculture Secretary Earl Butz at the cooperative's annual dinner in April 1972. The corporate contribution was made in cash and was subsequently covered up by certain co-op officials, and it was not publicly reported by the Finance Committee To Re-Elect the President until more than a year later. Receipt of the contribution and the Secretary's appearance were arranged with the knowledge of top campaign officials, including Magruder and possibly Mitchell, and the cash went to a secret fund used by LaRue to pay the original Watergate defendants. In connection with this contribution, the cooperative and former co-op officials, Richard L. Allison and Francis X. Carroll, have pleaded guilty to violating Federal law prohibiting corporate political contributions. This matter is discussed in greater detail below.

In early 1972, on behalf of Lehigh Valley, Francis X. Carroll, its Washington, D.C., representative, extended an invitation to Vice President Agnew to attend the co-op's annual shareholders' dinner meeting scheduled for April 20, 1972.<sup>86a</sup> According to Richard L. Allison, then president and general manager of the co-op, Carroll told the co-op board of directors that \$35,000 was needed to secure the Vice President's attendance, and the board approved an "honorarium" of that amount for the Vice President.

The Lehigh Valley invitation to the Vice President was approved by John Mitchell.<sup>87</sup> However, the Vice President was already scheduled to make several political appearances in that area, and his office notified the co-op that he would be unable to attend the meeting.

Carroll apparently would not take "No" for an answer. After receipt of the Vice President's refusal letter, Carroll contacted certain Members of Congress to obtain their support in his efforts, directly referring, in at least one instance, to a possible contribution. In a letter dated February 28, 1972, to Senator Hugh Scott, Carroll explained his

<sup>86a</sup> Previously, the co-op had extended a dinner invitation to President Nixon who had declined. There is no evidence that this invitation was in any way connected to the contribution.

<sup>87</sup> According to John Damgard, then assistant to the vice president for scheduling and appointments, invitations for campaign appearances by the President or Vice President in 1972 were first reviewed by Mitchell or Jeb Magruder. Damgard also told the Select Committee staff that if an invitation also involved fundraising, it was reviewed by Stans, too, but he could not recall whether Stans reviewed the Lehigh Valley invitation.

attempt to secure the Vice President and stated that Allison had authorized him to contribute \$30,000 to the Republican National Committee and/or the President's reelection campaign. Senator Scott's office passed on the request to the CRP scheduling office, under the direction of Herbert Porter, who in turn assigned the matter to his assistant, J. Curtis Herge.

Herge coordinated the surrogate program, which involved a total of 35 Cabinet officers, Senators, Congressmen and Federal agency officials making political appearances in the 1972 campaign as surrogates for the President. As part of his responsibilities for the surrogate program, Herge was responsible for scheduling in the 1972 primary States, one of which was Pennsylvania, whose Presidential primary was to be held on April 25—5 days after the scheduled co-op dinner.

Herge says that when he was assigned the Lehigh Valley matter, he contacted Curtis Uhre, one of Senator Scott's aides, who informed him that Carroll was offering \$100,000 for an appearance by the Vice President. Although Uhre denies knowing of an offer of \$100,000 or any other amount directly in exchange for such an appearance, he acknowledges that Carroll implied to him that a contribution would be made later, if he was successful in obtaining Agnew's appearance.

Herge says he reported the offer to Magruder, who apparently took an increased interest in Lehigh Valley's request. John Damgard, Mr. Agnew's scheduling aide, says that 4 or 5 days before the April 20 dinner, Magruder asked him to see if the Vice President would reconsider his earlier refusal and attend the dinner, calling the invitation a "high priority." Damgard does not recall if Magruder specifically referred to the contribution. In any event, the Vice President again refused.

On or about the 20th, a last-minute effort was made to secure a substitute speaker for Agnew. Herge says that when he notified Carroll that the Vice President could not attend, Carroll told him that for someone of less prominence the contribution would not be \$100,000 but would be smaller—from \$35,000 to \$75,000. According to Herge, Carroll offered to contribute the money to the RNC, but Herge says he instructed him that the money would go to FCRP.

Herge then contacted several surrogates, and only Secretary of Agriculture Earl Butz did not flatly refuse. Herge says that he checked with Carroll, who told him that the \$35,000 to \$75,000 offer was still open for someone such as Secretary Butz. Herge then notified Magruder, who said he would talk to Mitchell to convince Butz to make the appearance. Later that day, Herge was notified by Magruder that Butz had indeed agreed to attend the dinner, and that Herge was to ask Carroll for \$50,000.<sup>88</sup> Herge says Magruder told him "don't let it fall through."

Herge did not. He says he called Carroll and told him Butz would attend the affair that evening, and he "recommended" a \$50,000 contribution. According to Herge, Carroll said it would be in cash but that he only had \$25,000 available for delivery that day.

<sup>88</sup> Herge did not explain why Magruder set the amount at less than the maximum allegedly offered by Carroll—\$75,000.

Carroll has given Federal investigators a different account of these contacts with Herge.<sup>80</sup> Carroll says that Herge contacted him and told him Lehigh Valley would have to pay \$100,000 for Agnew but that he "vigorously" refused this offer. On April 19, Herge allegedly told him that Agnew could not attend but that Secretary Butz could for \$50,000 in cash—\$25,000 on the day of the dinner and \$25,000 immediately thereafter. Carroll says that he "reluctantly" agreed.

Whoever generated the idea of a \$50,000 contribution in exchange for Butz' appearance, it is undisputed that it was made in cash during the ensuing week or two. On the afternoon of the 20th, before departing Washington for the dinner, Carroll delivered \$25,000 in cash to the messengers sent by Herge—James McCord, the CRP security officer, and William Minshall, a CRP employee—and then met Secretary Butz at the airport and accompanied him to Allentown, the site of the meeting. Don Brock, Butz' assistant who accompanied him to the dinner, says that both he and the Secretary were aware that the Lehigh Valley people had made a contribution but that they were not aware of the source.

The \$25,000 was given to Porter, who kept it in his office safe at CRP. Herge says that following the dinner, at Porter's insistence, he contacted Carroll several times about the remaining \$25,000. According to Herge, Carroll finally made the second \$25,000 cash payment in early May 1972, to Herge at CRP headquarters.

Carroll obtained both \$25,000 payments from the corporation in the form of checks payable to him, which he cashed. Allison approved both payments; authorization for the second payment was never sought or obtained from the board.

George Buchanan, Lehigh Valley's former comptroller, asserts that an effort was made to conceal the contribution for approximately 1 year by disguising the payment in the company's records. The contribution was charged to corporate expense accounts, and at one point was even treated as a loan to Carroll. Although Allison says he insisted that the second payment be treated from the outset as a loan to be repaid by Carroll from monthly retainer payments of \$3,000 from the co-op, no note was obtained from Carroll until June 1973—more than a year later and after publicity about the matter arose—and Buchanan says that the payment was never recouped from Carroll.

The cash contribution was also not reported by the President's reelection campaign organization until more than a year after its receipt. According to Porter and Herge, Magruder said that Stans wanted the money to go to FCRP, and they transferred it to Hugh Sloan, treasurer of FCRP, almost immediately after the second payment was delivered by Carroll in May 1972. In October, Stans asked Herge about the contribution, and Herge explained it to him. Herge says that at that point, Stans said, "Oh yes, that must be the money Sloan told me about. We will have to return it, because it's corporate money."

<sup>80</sup> Although Carroll has already pleaded guilty, on May 28, 1974, to aiding and abetting an individual to commit a violation of 18 United States Code section 610 prohibiting corporate political contributions, his attorney has informed the Select Committee staff that Carroll would refuse to testify before the committee on the ground of the fifth amendment privilege against self-incrimination. Carroll's statements in this report are based upon a "Contact Memo" dated July 17, 1973 and written by a GAO investigator who interviewed Carroll.

Herge and Porter both deny any knowledge that the money came from corporate funds. They say that they understood that a wealthy member of the Pew family, of the Sun Oil Co. and connected with Lehigh Valley, had donated the funds and that they briefly referred to that fact at the time of the transfer to Sloan in May 1972. Sloan says that Porter told him only that the money was contributed through a Washington attorney,<sup>90</sup> by a donor who wanted to remain anonymous.

Sloan says that he asked Stans in May 1972 about reporting the contribution but that he was unable to obtain any further information. Accordingly, he did not include it in the May 31 FCRP report to GAO or in subsequent reports. The money, together with an additional \$31,000 cash, was transferred to LaRue in July 1972, shortly after the Watergate break-in, most of which was later paid to the original Watergate defendants.<sup>91</sup>

Despite Magruder's and possibly Mitchell's involvement in the contribution in April 1972, and Stans' knowledge of it no later than October and possibly as early as May 1972,<sup>92</sup> the contribution was not reported by FCRP to GAO, as required under the Federal Election Campaign Act of 1971, until June 10, 1973. Thereafter, Federal authorities investigated the contribution. Allison and Carroll left Lehigh Valley and, in May 1974, Lehigh Valley, Allison and Carroll pleaded guilty to violating Federal law prohibiting corporate campaign contributions. On May 6, 1974, Lehigh Valley pleaded guilty to one count of violating Federal law prohibiting a corporate campaign contribution (18 U.S.C. 610) and was fined \$5,000. On May 17, 1974, Allison pleaded guilty to a nonwillful violation of the same law and was fined \$1,000, which was suspended, and Allison was placed on unsupervised probation for 1 month. On May 28, 1974, Carroll pleaded guilty to a nonwillful violation of aiding and abetting an individual to violate the same law and was placed on unsupervised probation for 1 month.

#### K. MINNESOTA MINING & MANUFACTURING CO.

Minnesota Mining & Manufacturing Co., better known as 3M, made contributions from corporate funds to three Presidential candidates during the 1972 campaign. President Nixon's reelection bid received two contributions, one of \$6,000 and the other \$30,000, while two Democratic contenders, Hubert Humphrey and Wilbur Mills, received \$1,000 each.

As related by 3M officials in staff interviews, the moneys used in these transactions came from a secret cash fund kept in the safe of Irwin Hansen, 3M's vice president of finance. Although a political fund has been in existence at 3M since the 1950's, the fund under Hansen's custody had its origin in 1964. At that time, Hansen was requested by Burt S. Cross, then president and chief operating officer of 3M, to find a new method for raising funds for "public relations."

<sup>90</sup> Carroll represented himself to Lehigh Valley officials, and possibly others, to be a lawyer, although he is not.

<sup>91</sup> See 2 *Hearings* 546-48, 702; 5 *Hearings* 2108; 6 *Hearings* 2289-91.

<sup>92</sup> Both Porter and Herge say that they understood that Magruder had informed Stans of the contribution in May 1972, shortly after its receipt. Stans testified before the committee in its public hearings that the only cash contribution to FCRP after April 7, 1972 until June 23, 1972 was the \$50,000 from Lehigh Valley but that he did not learn of the contribution until October 1972 (2 *Hearings* 710), although Stans and Sloan personally transferred that money (plus \$31,000 more) to LaRue in July 1972. (2 *Hearings* 547.)

The initial method used to raise money for the political contribution fund was obtained by overstating prepaid insurance. This was accomplished by withdrawing money from a corporate bank account and debiting an internal insurance account. The funds were transferred to a Swiss bank using regular commercial banking procedures. The funds held on deposit were withdrawn as required.

In 1967, according to Hansen, he and Cross decided that a new source was needed. They met with Dr. T. Gutstein, a Swiss attorney and consultant for 3M. It was proposed that Gutstein submit false billings for services to 3M and, after payment, return the proceeds in cash to Hansen. Gutstein agreed to provide the funds, although he was not told of the intended use.

In the fall of 1967 Hansen said he requested \$25,000 from Gutstein who sent 3M a billing for that amount. Hansen approved payment, a check was issued, and Gutstein returned the proceeds in \$100 bills to Hansen by insured mail. In April 1968 and May 1969 similar transactions took place, each involving \$50,000. After the \$125,000 was raised through Gutstein in 1969, Hansen stated that he told Cross that this method of raising money should be discontinued. He related that at that time he believed that only he and Cross were aware that the fund consisted entirely of corporate funds.

In November 1970, Harry Heltzer became chairman of the board and chief executive officer. Hansen informed Heltzer of the existence of the fund but not of its source. He explained to Heltzer that all expenditures from the fund required the chairman of the board's approval. In an affidavit given to this committee, Heltzer said, speaking of the fund, that when the 1972 contributions were made, "I was not aware of its origin" and "while I had strong suspicions that the fund contained corporate funds, I did not make an inquiry as to its source, probably because I did not want to know the answer."

On November 2, 1971, moneys from the corporate fund were used to purchase six \$1,000 tickets to a "Salute the President" dinner. The second contribution—of \$30,000—to the Nixon campaign is described in Heltzer's affidavit:

On March 26, 1972, a contribution was made from corporate funds to the Committee To Re-Elect the President when Wilbur Bennett, 3M's director of civic affairs, delivered \$30,000 in cash to Mr. Maurice Stans. About March 1972, Mr. Bennett and Mr. Stans had a conversation during which the latter suggested that 3M executives consider giving a contribution to the Committee to Re-Elect the President. In a later conversation Mr. Stans suggested to Mr. Bennett that the contribution be in an amount between \$75,000 and \$100,000, which amount was comparable to anticipated contributions from other enterprises about the size of 3M. Mr. Bennett tells me that at no time did Mr. Stans assert any overt pressure on him for any contribution nor was I at any time ever aware of any such pressure. I never did discuss this contribution with Mr. Stans.

About March 15, 1972, Bennett discussed Stans' request with me. We agreed that the amount requested was excessive in the light of previous contributions to the Nixon campaign by 3M executives and the fact that another fundraiser for the

President was scheduled for the fall of 1972. We decided that the \$30,000 balance would come from a political contribution fund in the custody of Mr. Hansen, director of finance.

Heltzer initialled an authorization for Hensen to give Bennett \$30,000 in cash. On March 26, 1972, Bennett met with Stans in his St. Paul, Minn., hotel suite. At that time he delivered to Stans the \$30,000 in cash along with a \$3,000 check drawn on the personal account of Heltzer. Subsequently, about \$15,000 in contributions from other 3M executives was forwarded to the Committee To Re-Elect the President.

In the Spring of 1973, when it became apparent that the Common Cause suit would require disclosure of all pre-April 7, 1972 contributions, Stans requested a meeting with Bennett. According to Heltzer's affidavit, the following events took place.

On May 22, 1973, Bennett met with Stans in Washington pursuant to his request, and Stans informed him that it was imperative that he have a list of the names of the persons identified with the \$30,000 contributions.

Bennett returned to St. Paul and drew up a list of 29 persons associated with 3M who had made political contributions in the past and arbitrarily allotted a specific amount to each name. The persons who were named in the list were, of course, not the source of the funds, and they had not been consulted concerning the use of their names. Bennett sent the list to Stans the first week of June.

On July 8, 1973, Kenneth Parkinson, the attorney for the Committee To Re-Elect the President, communicated a request to Bennett to confirm the accuracy of the previously disclosed list.

Bennett informed Heltzer of the situation, including the arbitrary preparation of the list. Heltzer ordered the legal staff to conduct an investigation into the source of the Hansen fund. They employed outside counsel, and it was ascertained that corporate funds were involved.

At 3M's request the \$30,000 cash contribution was returned by the Finance Committee To Re-Elect the President. No other requests have been made by the company for the return of corporate funds illegally contributed.

On October 17, 1973, 3M Corp. and Harry Heltzer entered pleas of guilty to violation of the Federal Corrupt Practices Act. The company was fined \$3,000 and Mr. Heltzer \$500.

3M officials have indicated that \$136,000 was remaining in the fund and that it has since been returned to the company.<sup>93</sup>

#### L. NORTHPROP CORP.

On May 1, 1974, in U.S. district court, Washington, D.C., Northrop Corp., a major Government defense contractor, admitted that \$150,000 in corporate funds had been used in making contributions to the Nixon reelection campaign during 1972. In addition to the corporation, two of its officers, Thomas V. Jones, chief executive officer, and James Allen, vice president and assistant to the president, each entered a plea of guilty to violations of the law in connection with the disbursements of corporate funds for political contributions. The

<sup>93</sup> The contributions to the campaigns of Senator Humphrey and Congressman Mills are discussed elsewhere in this Report.

information contained in the indictments to which the defendants pleaded guilty is in direct contradiction with the information supplied by Jones, Allen and others to this committee during the fall of 1973.<sup>94</sup>

The transaction, as it now evolves,<sup>95</sup> was initiated on February 18, 1972, when Jones was approached by a group consisting of Herbert Kalmbach, Maurice Stans, and Leonard Firestone, chairman of the California FCRP. They asked Jones to make a "sizable contribution" to the President. Jones, anticipating such a solicitation, had previously discussed with Allen what an appropriate contribution should be. Jones told the fundraisers that he would contribute \$50,000. However, they made it apparent that \$50,000 would not be considered an appropriate amount and that a person in Jones' position was expected to contribute \$100,000.

Immediately following this meeting, Jones and Allen met to discuss how \$100,000 could be raised. They decided to seek a foreign source and in that regard contacted Stanley Simon, of Simon & Associates of New York City. Simon is a "management consultant," or as he put it in a staff interview, a "doctor for corporations." Simon told Allen he thought something could be arranged through William Savy, a European business adviser for Northrop, who had, for a number of years, been remitting a portion of the Northrop money he received.

In late February 1972, Savy was paid \$120,000 by Northrop. The supporting voucher lists the payment as "additional fees and other compensation." Savy, per instructions, then had 20 checks of \$5,000 each drawn on his account at the International Bank of Luxembourg. The checks were made out to FCRP committees, the names of which had been furnished to Jones by Stans.

On or about March 16, 1972, Jones received the 20 checks totaling \$100,000. The \$100,000 was given to Nixon reelection committees in two deliveries, one of \$50,000 to Leonard Firestone in mid-March 1972 and the second, also \$50,000, by Jones to FCRP headquarters in Washington, D.C., on April 5, 1972.

Sometime in late July 1972, after Kalmbach had been requested by certain White House officials to raise money for payments on behalf of the original Watergate defendants, Jones said he was called by Kalmbach. Kalmbach advised him that there was a need for additional

<sup>94</sup> In September 1973, committee questionnaires, for corporate officers and individuals, were sent to Jones and James Wilson, senior vice president, finance. The questionnaires were returned signed and dated September 21, 1973. Question 6 in the corporate officer questionnaire asked:

"Did any of your companies make any contribution out of corporate funds, directly or indirectly, to any political candidate, committee for a candidate, political party or firm or person on behalf of any political candidate, committee, or party in the 1972 Presidential Campaign?"

To this Jones answered, "No as to Northrop Corp. and its subsidiaries" and Wilson replied "No as to the best of my knowledge and belief." Jones claimed that he contributed \$98,000 to the Nixon reelection effort, and Wilson stated he made a \$20,000 donation.

During October 1973, Allen, Jones, Wilson, and F. W. Lloyd, another corporate vice president, made themselves available for unsworn staff interviews. All of these men maintained that they had no knowledge of any contributions from corporate funds. At that time these men represented their pre-April 7, 1972, contributions as follows:

Tom V. Jones, president, \$45,000; James Allen, vice president in charge of finance and treasurer, \$15,000; F. W. Lloyd, vice president in charge of operation, \$20,000; James Wilson, vice president, \$20,000; total \$100,000.

In addition to this committee, Jones, among others, also represented to the GAO, the FBI, and the grand jury that the \$100,000 contribution was part of a personal commitment unrelated to the corporation. Jones represented that the post-April 7 contribution of \$50,000 came from a personal cash fund which he kept.

<sup>95</sup> The facts recited herein are based primarily on a written account furnished by defendants' counsel to the Select Committee following the guilty pleas, as well as interviews conducted by committee staff in October 1973.

funds and asked if he could come by to discuss this need. On or about July 31, 1972, Kalmbach and Jones met in Jones' office. Kalmbach told Jones he had a "special need," and Jones agreed to an additional cash contribution. At this time both Jones and Allen were holding other cash funds which had been obtained from Savy. Jones took \$25,000 of these funds which were in his possession and asked Allen to put in an additional \$25,000, from the fund which he was holding and delivered the \$50,000 in cash to Kalmbach. The entire \$50,000 represented Northrop corporate funds. Jones was assured by Kalmbach that this payment would be treated secretly and anonymously. There is no evidence that Jones was aware of the purpose for which this money was used.

Shortly before the election, when the Common Cause suits to disclose pre-April 7, 1972, contributors was gaining momentum, Jones became alarmed that the initial \$100,000 contribution might be publicly disclosed. Also, about the same time, newspapers reported a congressional investigating committee had traced \$30,000 in Luxembourg checks, obviously a portion of the Northrop contribution, to the Republican campaign. Kalmbach approached Jones on November 6, 1972, and related that officials of FCRP were concerned that the contribution was from corporate funds. Kalmbach offered to return the contribution, if this was the case, but Jones emphatically denied corporate funds were involved.

Sometime during this period, Jones began to conceive a plan to conceal the corporate origin of the \$100,000 contribution, which was put into effect and related to this committee in late 1973 as the true facts.

In late 1972, Jones went separately to Allen, Wilson, and Lloyd and asked that each of them subscribe to a substantial portion of the \$100,000 contribution. It is not completely clear just what the understandings were among Jones and Wilson and Lloyd. Wilson says that he was asked to commit only a contingent maximum of \$20,000 and that he would not actually have to contribute that much if Jones succeeded in persuading others to join the contribution. Lloyd understood Jones initially to ask simply that he "front" for a \$20,000 portion of the contribution, should it be publicly disclosed, because of the public relations problems in explaining such a large personal contribution by Jones.

Jones and Kalmbach met again a short time later. The \$100,000 contribution was again discussed and Jones, as before, represented that the \$100,000 was not corporate money. In addition to Kalmbach, attorneys for FCRP were also in contact with Jones' attorney as a result of the Common Cause suit. Apparently, as a result of these contacts, Jones decided that it was necessary to prepare bogus documentation to support this newly fabricated plan.

Jones had Wilson, Lloyd, and Allen prepare promissory notes backdated to February 28, 1972, and payable to Thomas Jones on February 28, 1973. The Wilson and Lloyd notes were for \$20,000, and Allen's was for \$15,000. Jones prepared a promissory note to William Savy for \$100,000 at 9 percent per annum, which was also backdated to February 28, 1972, and payable on February 28, 1973. Other supporting documents were also readied.

Jones and Allen agreed that they would represent the prior transfer of \$120,000 to Savy as an advance made in contemplation of substantial new efforts that Savy would be undertaking to market a particu-



lar Northrop aircraft to NATO countries. Allen and Jones also arranged with Savy that the \$100,000 advance to Jones would be repaid and that Savy would return the unused portion of the \$120,000. In two yearend transactions, Savy and one of his European companies returned a total of \$94,000. Correspondence was prepared to explain this return of funds as the result of a failure of the contemplated marketing effort.

Jones then traveled to Washington where he presented an FCRP attorney with the bogus documentation supporting the contribution.

Prior to February 28, 1973, Jones paid his note to Savy, and the three Northrop officials paid their notes to Jones. Jones and two other officials obtained the funds to repay their notes by taking out short-term loans from local lending institutions, and the other official withdrew funds from his account in a local savings and loan institution to cover his obligation.

On several occasions subsequent to their \$20,000 payments to Jones, Lloyd, and Wilson came to Allen—not Jones—to seek at least a partial reimbursement for their outlays. On March 15, 1973, Allen decided on his own, and without consulting Jones, to provide each man with \$12,000 in cash from the Savy fund. He cautioned them to be discrete in depositing the money and told them there would be no further reimbursement.

Northrop Corp. and Jones were indicted under sections 2 and 611, title 18, United States Code, for consenting to the use of \$150,000 in corporate funds for political contributions. Both were fined \$5,000. Allen was indicted under section 610, title 18, United States Code for consenting to the payment of \$24,000, \$12,000 each to Wilson and Lloyd, from corporate funds. Allen was fined \$1,000. Northrop and Jones are the first contributors to be charged under 18 U.S.C. 611 which prohibits contributions by corporations doing a substantial portion of their business with the Government.<sup>96</sup>

#### M. PHILLIPS PETROLEUM CO.

In February and March 1972, W. W. Keeler, who was then chairman and chief executive officer of the Phillips Petroleum Co., made contributions totaling \$100,000, from the corporate funds of Phillips, to the Finance Committee for the Re-Election of the President, as a result of solicitations by Maurice Stans and others.

Keeler has been quite active in a number of general business and petroleum industry organizations. For example, in 1970 he was chairman of the National Association of Manufacturers, has worked with the U.S. Chamber of Commerce, and has been active in the American Petroleum Institute, the National Petroleum Council, and the Adver-

<sup>96</sup> Section 611. Contributions by firms or individuals contracting with the United States. Whoever, entering into any contract with the United States or any department or agency thereof, either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof, or selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, during the period of negotiation for, or performance under such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly makes any contribution of money or any other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

Whoever knowingly solicits any such contribution from any such person or firm, for any such purpose during any such period.

Shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both. June 25, 1948, c. 645, 62 Stat. 724.

tising Council and a member of the Military Petroleum Advisory Board for 9 years.

Primarily as a result of his active role in these organizations, Keeler had fairly frequent contact with Stans while the latter was Secretary of Commerce. Keeler recalls a particular conversation with Stans which occurred in the latter part of 1971 following a meeting between Stans and a group from the NAM.<sup>97</sup> Stans told him at that time that he would be leaving the Commerce Department to head President Nixon's fundraising activities for the 1972 campaign, that he expected substantial help from the oil industry, and that he hoped Keeler would assist him in his fundraising efforts. Keeler's response was noncommittal.

Keeler subsequently had one or two telephone conversations with Stans on this subject in late 1971 or early 1972. He also had calls from Dan Parker of the Parker Pen Co., as well as from Jeremiah Milbank, the chairman of the Republican Finance Committee. At various times Keeler was asked to take an active role in Republican fundraising, including requests to serve as cochairman for Nixon fundraising in Oklahoma, as regional cochairman for Oklahoma, Texas, and Louisiana, and as an industry fundraiser to contact officials of other companies in the petroleum industry. Keeler consistently declined to act as a fundraiser, although at a later meeting with Stans he did agree to talk to a number of oil company officials.

Keeler reached the conclusion, probably by early 1972, that, while he would not solicit contributions for the Nixon campaign, he had no alternative but to make a substantial contribution for Phillips. According to Keeler, he decided that he would try to "get by" with a contribution of \$75,000.

A senior officer of Phillips at that time had custody of cash, which had been generated from foreign transactions of Phillips which occurred prior to the time that Mr. Keeler became chairman and chief executive officer of the company in September 1968. These funds had apparently been obtained for the specific purpose of use for political contributions, and their disbursement was controlled by the chief executive officer. The official having custody of these funds in 1972 had been given this responsibility shortly before Keeler became chief executive officer. Apparently, neither he nor Keeler had either detailed or firsthand knowledge of their origin, and it is unlikely that more than two other officers of the company were even aware of their existence.

In 1972, at Keeler's direction, the officer having custody of these funds provided him with the initial \$75,000, and subsequently with an additional \$25,000, which he used for the contributions to the Finance Committee for the Re-Election of the President. Keeler believes that he discussed his decision to make the contribution with one other officer of the company, but simply to inform him as to what Keeler had decided and why.

Keeler called Stans and indicated that he expected to be in Washington in early February and would have a package to deliver. Stans

<sup>97</sup> After Phillips publicly disclosed its corporate contribution on August 17, 1973, requests were made of counsel for the company to make available for interview the knowledgeable corporate officials. Because of negotiations with the Special Prosecutor over the disposition of the criminal case, their appearance was postponed until November 20, 1973. On that date Keeler appeared and, on advice of counsel, pleaded his privilege against self-incrimination. The case against Keeler and the company was disposed of on December 4. Thereafter, at the request of the committee, Keeler provided a verified statement that forms the basis of the discussion of Phillips' corporate contribution.

said he would be out of town and asked him to deliver it to Lee Nunn of the Finance Committee for the Re-Election of the President. Keeler came to Washington on February 6, 1972, to attend a White House conference and remained in Washington for a meeting of the National Petroleum Council on February 10, 1972. The first contribution was delivered to Nunn following a meeting with Attorney General John Mitchell which Keeler believes occurred on either the 9th or 10th.

Shortly after making the first contribution, Keeler received another call from Stans in which Stans again asked for Keeler's help in raising funds from the oil industry. Keeler believes that Stans may have asked him about the likelihood of obtaining contributions from a number of specific individuals in the industry during that conversation. In any event, they made an appointment to meet later at Stans' office in Washington to discuss this further.

This meeting occurred on March 1, 1972, at Stans' office at the Finance Committee for the Re-Election of the President. Keeler recalls that Stans began by making "quite a speech" about the oil industry, in which he stated that the oil industry had done very poorly in the 1968 campaign; that it had not made substantial contributions to Nixon; that he had reason to believe that the oil companies in the past had been heavy contributors to political campaigns; and that he expected them to make similar contributions in this campaign. Stans listed a number of people in the oil industry whom he said he did not know or did not know well, and asked whether Keeler did. Keeler said that he did know most of those mentioned.

Stans asked if Keeler would contact those whom he knew in behalf of the finance committee and solicit a contribution since he was having difficulty contacting oil industry people. Keeler recalls his commenting, "Some of these fellows I can't even get in to see." Keeler indicated that he was not willing to act as a formal fundraiser or to solicit contributions, but was willing to talk to those whom he knew and urge them to see or talk to Stans when Stans attempted to contact them. Stans said that would be helpful. Keeler expressed the opinion that it would do no good to contact some of those mentioned. For example, he referred to one company president who was antagonistic toward the Nixon administration because of the delays in constructing the Alaskan pipeline.

While Keeler recalls that in an earlier conversation Stans had indicated that he wanted \$400,000 from each company, at the March 1 meeting Stans stated that he wanted at least \$200,000 from each company and something to the effect that, "These companies we are discussing ought to be able to raise that much." Keeler responded that he would not speak for anyone else, but that \$200,000 was out of the question for Phillips. The conversation ended with Stans telling Keeler that if he could not contact Stans, he should see Lee Nunn.

Keeler believes that, following the meeting with Stans, he talked in person or by phone to most of the oil industry executives suggested at the meeting. All those with whom he talked indicated their willingness to talk to Stans, but almost all either protested that they didn't know whether they could raise the kind of money Stans wanted, or indicated that they did not intend to make a contribution.

Keeler later was asked and agreed to act as cochairman for one of the \$1,000-per-plate Nixon "victory dinners" in Tulsa and was listed as cochairman on the invitations; he and a number of Phillips officers attended.

Either as a result of the March 1 meeting with Stans or as a result of further telephone calls, Keeler decided that it was necessary to make a further contribution of \$25,000, bringing the company's total contribution to \$100,000. He was scheduled to be in Washington on March 27 and 28, 1972, for the annual Washington conference of the Advertising Council, and to attend a stag dinner at the White House on March 28. He drew an additional \$25,000 in cash, brought it with him to Washington, and delivered it to Nunn, probably on March 28.

In anticipation of his normal retirement, Keeler resigned as chief executive officer of Phillips effective January 1, 1973, and as chairman of the board effective April 1, 1973. In April 1973 he retired as an officer of the company, but remained a member of the board until April 1974. In July 1973, after his retirement, Keeler went to the office of the general counsel of Phillips, and advised him of these contributions and that they had been made from corporate funds. This conversation was reported to William Martin, who succeeded Keeler as chief executive officer on January 1, 1973. Martin directed that outside counsel be employed to investigate the circumstances of the contribution and to represent the company.

After a preliminary investigation by counsel, the board of directors of Phillips was advised at its meeting on August 13, 1973, that these contributions had been made from corporate funds. The board directed that counsel advise the Special Prosecutor investigating the 1972 election of these facts and take any steps necessary to secure the refund of the contributions from the Finance Committee To Re-Elect the President. This was done on August 15, 1973. On August 17, 1973, the \$100,000 was refunded to the company by the committee and a press release issued by Phillips reciting these facts in summary form.

On December 4, 1973, the Special Prosecutor filed an information in the U.S. District Court for the District of Columbia (Criminal No. 998-73) charging the Phillips Petroleum Co. and William W. Keeler with nonwillful violations of section 610 of title 18 of the United States Code prohibiting corporations from making, and corporate officers from consenting to, political contributions in Federal elections. On that date, both Phillips Petroleum Co. and Keeler entered pleas of guilty and were fined \$5,000 and \$1,000 respectively.

## II. AMBASSADORSHIPS

In a February 25, 1974, news conference, President Nixon denied that his administration was involved in the practice of brokering ambassadorships. He declared, "Ambassadorships have not been for sale and I would not approve an ambassadorship unless the man or woman was qualified clearly apart from his contribution." That very day, his personal attorney and one of his principal fundraisers, Herbert Kalmbach, became the first person in recent times to be convicted for "selling an ambassadorship," in violation of title 18, United States Code, section 600. On February 25, 1974, Mr. Kalmbach entered a guilty plea to having promised, in 1971, then Ambassador to Trinidad and Tobago, J. Fife Symington, a more prestigious European ambassadorship in return for a \$100,000 contribution, which was to be split between 1970 Republican senatorial candidates designated by the White House and Mr. Nixon's 1972 campaign. A condition of Mr. Kalmbach's agreement to plead guilty was that he be granted immunity from further prosecution in connection with "contributions

from persons seeking ambassadorial posts." Mr. Kalmbach has also advised the committee staff that then Ambassador to Jamaica, Vincent de Roulet, had a similar commitment.

Since his reelection on November 7, 1972, Mr. Nixon apparently has had little trouble finding large contributors who were "qualified apart from their contributions" to be appointed as Ambassadors. Since November 7, 1972, Mr. Nixon has appointed 13 noncareer Ambassadors. Eight of these newly appointed and confirmed Ambassadors each had donated a minimum of \$25,000 and in the aggregate, they contributed over \$706,000 to their appointer's reelection committee.

In fact, over \$1.8 million in Presidential campaign contributions can be attributed in whole, or in part, to persons holding ambassadorial appointments from the President:

## CONTRIBUTIONS OF AMBASSADORS APPOINTED BY PRESIDENT NIXON

Name	Post	Date confirmed by Senate	Pre-Apr. 7, 1972	Post-Apr. 7, 1972	Total
Adair, E. Ross	Ethiopia <sup>1</sup>	May 11, 1971			
Annenberg, Walter H.	Great Britain	Mar. 13, 1969	\$250,000	\$4,000	\$254,000
Campbell, James F.	El Salvador	Feb. 8, 1974			
Catto, Henry E.	do. <sup>1</sup>	Sept. 29, 1971	25,000		25,000
Crowe, Philip K.	Norway <sup>1</sup>	May 1, 1969		500	500
Davis, Shelby	Switzerland	May 12, 1969	100,000		100,000
De Roulet, Vincent	Jamaica <sup>1</sup>	Sept. 17, 1969	100,000	3,500	103,500
Dudley, Guilford	Denmark	May 12, 1969		2,500	2,500
Eisenhower, John	Belgium <sup>1</sup>	Mar. 13, 1969			
Farkas, Ruth L.	Luxembourg	Mar. 26, 1973		300,000	300,000
Farland, Joseph S.	Iran <sup>1</sup>	Mar. 27, 1972	10,000	12,300	22,300
Ferguson, Clarence C.	Uganda <sup>1</sup>	Mar. 16, 1970			
Firestone, Leonard K.	Belgium	Apr. 10, 1974	100,000	15,100	115,100
Franzheim, Kenneth	New Zealand	July 30, 1969			
Gerrard, Sumner	Jamaica	Mar. 20, 1974	38,867		38,867
Gould, Kingdon	Netherlands	Sept. 26, 1973	100,000	900	100,900
Helms, Richard	Iran	Feb. 8, 1973			
Hill, Robert C.	Argentina	Dec. 19, 1973		750	750
Holland, Jerome H.	Sweden <sup>1</sup>	Feb. 16, 1970			
Humes, John F.	Austria	Sept. 24, 1969	100,000	500	100,500
Hurd, John G.	South Africa	July 23, 1970			
Ingersoll, Robert S.	Japan <sup>1</sup>	Feb. 25, 1972	3,000		3,000
Irwin, John N.	France	Feb. 1, 1973	50,000	500	50,500
Keating, Kenneth	Israel	June 15, 1973		3,000	3,000
Kintner, William R.	Thailand	Sept. 26, 1973			
Krehbiel, V. John	Finland	Mar. 26, 1973		29,500	29,500
Lodge, John D.	Argentina <sup>1</sup>	May 23, 1969		200	200
Macomber, William B.	Turkey	Mar. 26, 1973		500	500
Marshall, Anthony D.	Kenya	Dec. 18, 1973	48,505		48,505
Meeker, Leonard	Romania <sup>1</sup>	July 22, 1969			
Melady, Thomas P.	Uganda <sup>1</sup>	June 12, 1972			
Middendorf, J. Wm.	Netherlands <sup>1</sup>	June 12, 1969		2,000	2,000
Miller, Lloyd J.	Trinidad and Tobago <sup>1</sup>	Dec. 19, 1973		25,000	25,000
Moore, John D. J.	Ireland	Apr. 18, 1969		10,442	10,442
Moyinhan, Daniel P.	India <sup>1</sup>	Feb. 8, 1973			
Neumann, Robert G.	Morocco	Sept. 19, 1973			
Peterson, Val	Finland <sup>1</sup>	May 1, 1969			
Ploeser, Walter C.	Costa Rica <sup>1</sup>	Apr. 6, 1970			
Prizlaff, John C.	Malta <sup>1</sup>	July 8, 1969		1,000	1,000
Replogle, Luther I.	Iceland <sup>1</sup>	do			
Rice, Walter L.	Australia <sup>1</sup>	Aug. 13, 1969		1,000	1,000
Rivero, Adm. Horacio	Spain	Sept. 8, 1972			
Rush, Kenneth	Germany <sup>1</sup>	July 8, 1969		2,000	2,000
Russell, Fred J.	Denmark <sup>1</sup>	Jan. 3, 1971			
Sanchez, Phillip V.	Honduras	May 17, 1973			
Schmidt, Adolph	Canada	July 8, 1969		1,000	1,000
Scott, Stuart Nash	Portugal	Dec. 18, 1973			
Selden, Armistead	New Zealand, Fiji and Tonga, and Western Samoa	Feb. 27, 1974			
Smith, Robert S.	Ivory Coast	Feb. 8, 1974			
Strausz-Hupe, Robert	Sweden	Apr. 25, 1974		1,000	1,000
Symington, J. Fife	Trinidad and Tobago	July 8, 1969	100,000	500	100,500
Vaughn, Jack Hood	Colombia <sup>1</sup>	May 23, 1969			
Volpe, John A.	Italy	Feb. 1, 1973		2,000	2,000
Watson, Arthur K.	France <sup>1</sup>	Apr. 6, 1970	300,000	3,000	303,000
Total			1,325,372	422,692	1,748,064

<sup>1</sup> No longer serving in post.

Furthermore, the committee's investigation indicates there are still a number of large contributors whose ambassadorial aspirations are yet unfulfilled. Six large contributors, who gave an aggregate of over \$3 million, appear to have been actively seeking appointments at the time of their contributions.

At present, 34 of 112, or about 30 percent of all foreign envoy posts abroad are held by noncareer appointees. The largest concentration of noncareer ambassadors is in Western Europe, where there is also a high concentration of persons contributing \$100,000 or over. Below is a list of eight Western European ambassadors and their contributions to the President's campaign:

<i>Country and ambassador</i>	<i>Contribution</i>
Great Britain, Walter Annenberg-----	\$250, 000
Switzerland, Shelby Davis-----	100, 000
Luxembourg, Ruth Farkas-----	300, 000
Belgium, Leonard Firestone-----	112, 600
Netherlands, Kingdon Gould-----	100, 900
Austria, John Humes-----	100, 000
France:	
John Irwin-----	50, 500
Arthur Watson-----	300, 000
Ireland, John Moore-----	10, 442
<b>Total -----</b>	<b>1, 324, 442</b>

Senator Claiborne Pell, a member of the Senate Foreign Relations Committee, said of the Belgium, Netherlands, and Luxembourg appointments:

And in this regard we ought to bear in mind that Benelux seems to be the most expensive place on which to be appointed because Mrs. Farkas, who is Ambassador to Luxembourg, and she wasn't appointed until her contribution had been put to the barrelhead even though an agreement had been received 6 or 8 months earlier, contributed \$300,000; Mr. Gould, who was not very forthcoming in his testimony as far as his wife's contribution went, less than candid, as I said publicly at the time, contributed \$100,000; and Mr. Firestone will have contributed \$168,000, so it means that to be the Ambassador to Benelux will have contributed over a half-million dollars, substantially over a half-million dollars, and I think it is a poor practice.

The Caribbean posts of Jamaica and Trinidad-Tobago were also popular with Presidential contributors. Sumner Gerard, appointed to the Jamaican post in February 1974, gave \$38,867, while Lloyd Miller, Ambassador to Trinidad and Tobago since December 1973, donated \$25,000. The two former envoys to these posts, Vincent de Roulet and J. Fife Symington, each contributed \$100,000, allegedly as part of an effort to obtain appointments to more prestigious ambassadorial posts.

According to the FCRP fundraisers interviewed by the Select Committee, they went to great pains to tell prospective contributors who might be interested in ambassadorial posts that there was no quid pro quo in exchange for any contribution they might give. Robert Gray, a public relations executive and a fundraiser in the 1972 Presidential campaign who had been recruited by Maurice Stans, had a set speech when making solicitations in this context. Speaking of his solicitation

of John Safer, a Washington, D.C., developer and sculptor who gave \$250,000 to the reelection campaign, Gray testified:

[H]e did tell me that he wanted \* \* \* to be considered for an ambassadorship. Over the years I have learned the speech almost by rote, which I gave to him as I have given every time that the subject comes up; and that is almost verbatim as I have given it that only the President can guarantee you that you can be an ambassador. No one else can guarantee that you will be nominated to the Senate other than he, and that any contribution from any citizen can do no more than assure him or guarantee that those of us who are involved in the fundraising process will do our best to see that his name is among those considered. And then he will be considered on the basis of qualifications at levels beyond ours.<sup>98</sup>

Gray communicated Safer's interest in making a contribution as well as his interest in Government service to Stans. Apparently, Safer was also referred to Herbert Kalmbach who reiterated that his interest in an ambassadorship would be forwarded to the proper persons, including Maurice Stans, but that no quid pro quo could follow from the contribution.

At the very least, a number of persons saw the making of a contribution as a means of obtaining the recognition needed to be actively considered. Thus, as noted below, Vincent de Roulet stated that he saw his contributions as one of three or four avenues available to individuals to obtain an appointment. In fact, one businessman, Roy Carver, chairman of the board of Bandag, Inc., apparently saw a correlation between the size of the contribution and the extent of the anticipated recognition. Robert Gray testified that his public relations firm, Hill & Knowlton, had been retained by Carver to gain "greater visibility on the Washington scene." As related by Gray, Carver later told him that he was "anxious to be considered as an ambassador." Although Gray had given Carver his "pat speech," Carver wanted to make contributions as a means whereby he would receive "consideration"—but not necessarily the appointment. Gray described his contacts with Carver:

Mr. DORSEN. Was any discussion had between you and Mr. Carver concerning the amount of contribution?

Mr. GRAY. No, not at any time. [M]y understanding is that he gave a heavy contribution in the end. The only thing that I know is that during the campaign he would call every so often to find out if I could tell him what other people had given, who was top money man at the moment; because he, particularly in the final weeks, got very anxious that he be on record as having given more than someone else. I don't know if he ended up with that distinction or not; but he likes to be first in what he does, and he was determined in the final weeks to be first if he could.

Mr. DORSEN. Did you communicate with him the amount that you thought would give him the highest contribution of the campaign?

<sup>98</sup> Gray executive session, March 12, 1974, 8-9.

Mr. GRAY. Yes. At times when I could have found that out I would pass it on to him.

Mr. DORSEN. How did you find this out?

Mr. GRAY. By calling Ms. [Arden] Chambers [Stans' secretary] usually.

\* \* \* \* \*

Mr. DORSEN. Did his desire to give the largest contribution in the campaign have anything to do with his desire to become an ambassador?

Mr. GRAY. With his desire to be considered as an ambassador? Yes, I am sure that it did. I cannot imagine that he would have given those kinds of moneys without that belief.

Mr. DORSEN. Did you and he discuss the possibility that he would give the largest contribution in the campaign, would tend to increase the amount of consideration he would get for his—

Mr. GRAY. No, it was not that. The amount of visibility he would get I think is what intrigued him about the amount.<sup>99</sup>

On November 2, 1972, Carver gave Bandag, Inc., stock worth approximately \$257,000 to the President's campaign. Although Carver received a number of State Department and White House interviews, he never received any appointment.

In at least two cases, discussed in greater detail below, there is evidence that the articulated policy of the Finance Committee To Re-Elect the President not even to suggest the possibility of a *quid pro quo* to a prospective contributor was ignored by high-ranking White House and campaign officials.<sup>1</sup> According to evidence in the possession of the committee, in two cases, involving J. Fife Symington and Vincent de Roulet, Herbert Kalmbach, the President's personal attorney and the leading fundraiser on behalf of FCRP prior to April 7, 1972, appears to have made an express commitment for an ambassadorial post in exchange for a substantial campaign contribution. In one of these cases, involving Symington, Kalmbach has already pleaded guilty to a violation of title 18, United States Code, section 600, which makes it a crime to offer a Government job in exchange for a political contribution. In a third case, involving Cornelius Vanderbilt Whitney, a \$250,000 contribution was returned to Whitney in the expectation that he would have to testify before the Senate Foreign Relations Committee and that the return would eliminate any suggestion that the anticipated appointment was related to a campaign gift.<sup>2</sup>

<sup>99</sup> *Id.* at 22-23.

<sup>1</sup> Perhaps in no other area of the campaign financing investigation was the inability to obtain White House documents as important as was the case involving ambassadorial appointments. Since the appointment is made by the President and final consideration of the merits of a particular candidate did not extend significantly beyond the walls of the White House, the internal White House documents reviewing the qualifications of a candidate could be particularly enlightening. As noted elsewhere in this report, no documents were provided to the committee following the conclusion of public hearings on August 7, 1973.

<sup>2</sup> In a fourth case, involving Ruth L. Farkas, the Select Committee refrained from conducting an investigation into any relationship between her campaign contribution of \$300,000 and her nomination to the post of Ambassador to Luxembourg at the request of the office of Special Prosecutor.

Compliance with this request of the office of the Special Prosecutor was one of several such actions by the committee.



## A. J. FIFE SYMINGTON

J. Fife Symington was appointed by President Nixon as Ambassador to Trinidad and Tobago in June 1969, and served in that position until his resignation in November 1970. As stated earlier, the incident involving Symington was the basis for Kalmbach's conviction.

Symington was appointed by Kalmbach as the Maryland finance chairman for Nixon's 1968 campaign; Symington was also a contributor to that campaign. During the course of the campaign, Symington indicated to Kalmbach his interest in becoming an ambassador. After the election, Kalmbach recalled that on several occasions Symington met with him to urge his consideration. Kalmbach said, "His name was on a list of people who had been contributors and workers, as someone who expressed an interest in an ambassadorship," which "was furnished to (Peter) Flanigan by Mr. Stans."

Symington received an appointment to Trinidad and Tobago in June 1969, but felt he should have been posted in Western Europe. Thereafter Kalmbach said, "he would call me from time to time and he made it very plain to me that, in view of how much he worked on behalf of the President" and because "his wife's aunt, I think it is, Helen Frick of Pittsburgh, had been a very major contributor to the President he felt that he had not been accorded as major a post as he should have been."

In September 1970, Symington called Kalmbach and asked to see him. A few days later, on September 16, Symington flew to L.A. and was met at the airport by Kalmbach. During lunch at the California Club, Symington explained the purpose of his visit. Kalmbach recalled:

He said that \* \* \* the humidity was terrible in Trinidad, and it was affecting his wife in such a manner that he was giving serious consideration to resigning and coming back home. He repeated then the fact that he liked being an Ambassador, and \* \* \* he felt he should have been appointed to a European post in 1969, but that now with a year or so of experience in Trinidad, he was ready to go to a major post or a more major post, and particularly talking about a European post, and that was what he wanted to do was to talk to me about this and he wanted my support with the White House to secure such an appointment.

Now, about that time I said, Fife, I've been involved in a senatorial campaign program. I'm soliciting funds. I don't think \* \* \* I've talked to you about this before, but I would like to talk to you about your financial help for this program. And I described the program.

He said, Herb, Marsie and I will contribute \$100,000 to the President and the 1972 program. Now, if you want to split it up, that is your decision and the decision of the White House. But I want to make it plain that I'll make this pledge, but before I make this pledge firm, Herb, I would like to be certain, that I would like to be certain that I will receive an appointment to a European post.

And I said, well, Fife, I just don't have the authority to do more than I've done before, and that is give you my word I'll act as a reference and I'll support your candidacy for a major post. He said, Herb, with all respect \* \* \* that isn't good enough. He said, I've got to have the assurance from Bob Haldeman. And I said, Fife, I can't do that, you know. And he said, why don't you call him? And I said, OK, I will.<sup>3</sup>

Kalmbach then went on to describe his efforts to reach Haldeman and obtain a commitment for a European post for Symington:

I went to the telephone and called him, called Bob Haldeman.

And it's my memory that when the operator came on, she then put me through to Larry Higby. And it's my memory, too, that they picked him up in Chicago, that evidently Bob and the President were in Chicago on that day. And I described to Higby my conversation, the fact that Symington wanted a European appointment, that he was willing to make this pledge, give \$50,000 in 1970 and \$50,000 in 1972.

And I said, Larry, I want to be told whether this is acceptable or not. And it was precisely understood in our conversation that Symington was asking for a commitment. Larry said, Herb, let me call you back and I said, alright. And I returned to the table and it seemed to me I got a call at the club within a matter of minutes. Now, whether it was 15 minutes or 30 minutes I don't know. But when Higby came on the phone, he said Herb, the answer is go. You can go ahead on that. And I said, fine, Larry. And as I remember, that was about the extent of the conversation. I went back to the table and so informed Ambassador Symington and he said, alright, then, in fact, a commitment has been made and I agreed with that.<sup>4</sup>

There was then a discussion of the European posts that might be available. Kalmbach said he told Symington that the British and French posts were out but there was a possibility of Spain, Portugal, and several other embassies. Symington sorted out these posts in order of his preference, and Kalmbach "wrote all of this out and gave him a slip of paper which he put in his wallet."

Shortly after this meeting, Symington gave Kalmbach \$50,000 for the 1970 senatorial campaign.

During 1971, after Symington resigned his Tobago post, Kalmbach began to talk to people at the White House about Symington's commitment and appointment. Kalmbach said he talked on several occasions to H. R. Haldeman, Lawrence Higby, Gordon Strachan, and Peter Flanigan about the commitment to Symington, including the fact that Symington was making a large campaign contribution. Kalmbach said that he also went to Stanton Anderson to talk about this appointment, and there "was no question about" the commitment, although Symington's contribution activity was not discussed.

Kalmbach stated that Flanigan was the only person in the White House ever to question the commitment. Kalmbach recalled Flanigan

<sup>3</sup> Kalmbach executive session, March 22, 1974, pp. 113-14.

<sup>4</sup> *Id.* at p. 115.

said, "We didn't give him a commitment. We can't do it." To this Kalmbach said he replied, "I don't care how you slice it, you did, and it came right out of Bob's office. And as far as I'm concerned, it's a matter of honor and we live up to what we say we will do."<sup>5</sup>

After this Kalmbach said that he wrote several letters to the White House expressing his view on this matter. Also he continued to go back and forth between Haldeman, Strachan, and Flanigan but no progress was being made. Haldeman told Kalmbach that it was Flanigan who was blocking the appointment. According to Kalmbach, Haldeman said, "Herb, you've got to talk to Flanigan. Flanigan was blocking it."<sup>6</sup>

When in 1972 nothing had been done, Flanigan suggested to Kalmbach that they give Symington his money back, according to Kalmbach. Kalmbach met with Symington and told him of the problems that had been encountered and that he was unsure if the appointment would be forthcoming. When Kalmbach told Symington that he would return his money, Symington replied, "As far as I'm concerned, I don't want it back. I've got the commitment, and that's all I need." Kalmbach advised Flanigan and Strachan of Symington's position.

Kalmbach said that he had never discussed the commitment with the President and added that there was no indication that anyone had discussed this matter with the President.

In a letter to the committee dated June 20, 1974, Flanigan stated his recollection of his participation in discussions regarding Symington, as well as Vincent de Roulet, whose case Flanigan recalls was presented to him along with Symington's:

Toward the end of 1970 or in the first part of 1971 Mr. Kalmbach asked for a meeting with me. During that meeting he said that in the future a European ambassadorial post should be held for Mr. Symington, then Ambassador to Trinidad and Tobago, and another for Mr. de Roulet, then Ambassador to Jamaica. I indicated that both gentlemen could be considered along with other applicants. However, Mr. Kalmbach said consideration was not sufficient as a commitment had been made. My reply was that the policy established in the 1968 campaign against any commitments remained in force, and that he had no authority to make any commitment. Mr. Kalmbach said he was aware of the limits of his authority and had checked with the White House before making the commitment.

I said I believed there had been a misunderstanding, and wanted to clear up this matter before proceeding further, to which he agreed. Shortly thereafter I met with Mr. Haldeman, related Mr. Kalmbach's comments to me, said this was contrary to established policy which I believed should not be changed, and asked if Mr. Kalmbach's report was correct. Mr. Haldeman told me that Mr. Kalmbach was misinformed, that he did not have the authority to enter into commitments to Mr. Symington and Mr. de Roulet for ambassadorial posts, and that the policy against commitments remained intact. I said that I proposed to tell that to Mr. Kalmbach and,

<sup>5</sup> *Id.* at p. 116.

<sup>6</sup> *Id.* at p. 117.

in light of the misunderstanding, direct that he make clear to Mr. Symington and Mr. de Roulet that no commitment existed and they could have their contributions back. Mr. Haldeman expressed no objection to this course of action.

I subsequently called Mr. Kalmbach, reported my conversation with Mr. Haldeman, and told him of the agreed course of action. While Mr. Kalmbach expressed reservation as to any misunderstanding, he agreed to offer to return their contributions to Mr. Symington and Mr. de Roulet.

... In the case of Mr. Symington, however, based on reports, memoranda,<sup>7</sup> and personal conversations with him, I understood that he would not accept his contribution back but that he continued to feel that a commitment existed. On this understanding, I considered the matter unresolved and for that reason, among others, continued to oppose through the beginning of 1973 the appointment of Mr. Symington to an ambassadorial post.

When given an opportunity to state their views on the above allegation, Haldeman, through his lawyer, stated that, "he testified regarding the subject matter before the grand jury ... and declines to discuss it with you." Higby also stated that he "testified fully and completely to the grand jury concerning the general matters outlined in your letter." He added that "the inferences that your brief letter seems to make are not warranted."<sup>8</sup>

Stans, through his lawyer, observed that the applicability of executive privilege to correspondence between Stans and the White House regarding Presidential appointments is being litigated in the courts and that "other evidence bearing on that same topic, has been sealed by a judicial order." He concludes that "the parties thereto are bound to secrecy by the order. We must, on behalf of our client, respectfully decline to submit evidence on the subject." The committee has found nothing in any court order, however, that would prohibit Stans from responding to its inquiry.

Strachan's attorney in a communication to the committee stated that Strachan advised him that he was aware of discussions concerning Symington's desire for the ambassadorship, but heard nothing that implied a *quid pro quo*. The committee was further advised that Strachan recollects that at some point he was told by Haldeman—although he cannot recall the date—that Symington was not going to get the post he sought.

Anderson, in a staff interview, advised that he had no knowledge of any commitment to Symington and never discussed any such commitment with Kalmbach.

<sup>7</sup> The Select Committee does not have access to any documents to which Flanigan refers. As noted above, the White House has refused to turn over any documentary evidence to the committee since August 7, 1973.

<sup>8</sup> The letter to Higby from Chief Counsel Samuel Dash reads: "The Senate Select Committee on Presidential Campaign Activities has received evidence that you had discussions with Herbert W. Kalmbach concerning the desires on the part of Vincent de Roulet, then Ambassador to Jamaica, and J. Fife Symington, then Ambassador to Trinidad and Tobago, to obtain more prestigious ambassadorial posts. The evidence in the possession of the committee indicates that you had conversations with Mr. Kalmbach in which the contribution activity of these two individuals was discussed as well as the fact that both these men had commitments for their desired posts. In addition, the committee has received evidence that you had a telephone conversation with Mr. Kalmbach on or about September 16, 1970 in which Mr. Kalmbach was assured by you apparently following a conversation you had with H. R. Haldeman, that in exchange for a contribution totalling \$100,000 that Mr. Symington could be assured of an appointment to the ambassadorial position that he preferred."

In a staff interview conducted on November 16, 1973, Symington said that through 1972 he contacted Kalmbach several times about his interest in a West European ambassadorship. He said that he spoke to Kalmbach because he had a "pipeline" to the White House. Symington stated there was no "direct linkage" between his contribution and his desire for the post. In early 1972, Symington said, he spoke with Peter Flanigan, and told him that he was disappointed because he had been unable to secure a more desirable ambassadorship. Symington stated that Flanigan asked if he would like his wife's contribution returned, but that he turned down Flanigan's offer. Symington has received no appointment since that time.

#### B. VINCENT DE ROULET

Vincent de Roulet, a contributor to President Nixon's 1968 campaign, was named Ambassador to Jamaica in September 1969. De Roulet said of his 1968 contribution, "I was seeking some position in Government for which I considered myself qualified and I knew that there were only three or four ways to get it, one of which was money."

According to committee testimony and interviews, De Roulet pursued his quest for Government service. De Roulet said, after deciding to make a contribution in 1968, he advised Maurice Stans of this decision and also of his desire to acquire "some position in Government." Stans indicated to De Roulet that he would "show an interest on his behalf." Subsequently, De Roulet received a telephone call from Stans advising him that "he had sent his name on a list to the White House."

Shortly after the 1968 elections, De Roulet met with Peter Flanigan, and they discussed several possible postings. In April 1969, De Roulet was interviewed by Elliot Richardson, then Under Secretary of State, but the question of his obtaining an ambassadorship was never raised. He heard nothing more until his appointment to Jamaica was announced several months later.

In early May 1970, Ambassador De Roulet invited Herbert Kalmbach to Jamaica for a birthday party. At that time De Roulet informed Kalmbach that he was willing to contribute \$100,000 to President Nixon's 1972 campaign. De Roulet said that he brought up the subject of a contribution and that the \$100,000 figure had been previously decided upon by him and his wife. During their discussion, Kalmbach explained the "Town House Project" in which the White House was raising funds for various Republican Senate races in 1970. De Roulet agreed to split his \$100,000 contribution between the 1970 Senate races and Mr. Nixon's 1972 campaign—as Symington had done. Kalmbach said that De Roulet indicated his willingness to contribute cash if that was Kalmbach's preference.

After his visit to De Roulet, Kalmbach wrote him on May 12, 1970, thanking him for De Roulet's hospitality. The letter also contained the following paragraph:

The understanding reached on the subject discussed is clear and I am certain that you and Linda will look back in later days to a truly wonderful 8 years of service to the President and to the Nation.

In a staff interview, De Roulet said that it was his understanding that his \$100,000 commitment was firm after their May meeting. Kalmbach, however, says that he was not under the impression at that point that a commitment had matured even though, following his visit to Jamaica, Kalmbach had briefed Haldeman on his visit, including De Roulet's willingness to give \$100,000 in two installments and in cash if it was preferred. Haldeman replied that cash was preferred whenever possible.

Kalmbach said that the commitment was not made firm until several months later.

Kalmbach said that in the early summer of 1970, he returned to Jamaica to solidify De Roulet's pledge. According to Kalmbach, at that meeting, De Roulet said that before doing so, he wanted to make sure that he was not being "blackballed" for a European post in which he was interested. Kalmbach checked with Haldeman and Maurice Stans and both responded favorably to the job being done by De Roulet. Kalmbach so informed De Roulet, who, in September 1970, gave Mr. Kalmbach \$50,000 in cash, which Kalmbach put in the "Townhouse Trust Fund" he was managing. Kalmbach said that it was his understanding that De Roulet met with Haldeman on several occasions and that De Roulet had a firm "commitment" for a European post. In fact, Kalmbach says that he mentioned to the people in the White House who were involved in processing candidates for ambassadorial posts—including Haldeman, Stans, Flanigan, Strachan, Higby and Anderson—that De Roulet had a commitment in the same way as J. Fife Symington. Once again according to Kalmbach, only Flanigan raised any objection.

Kalmbach's understanding of the above events is based largely on a handwritten memorandum dated May 10, 1970 with the caption: "To: 1970 Contribution File Re: Meeting with Vincent De Roulet." The memorandum reads:

Had good meeting with Vincent De Roulet and reached the following understanding:

(a) He will "pledge" to give us \$100,000 over the next 3 years (ending in 1972); would prefer to give 25 in 1970, 25 in 1971 and 50 in 1972 but will give 50 this year and 50 in 1972 if we would so prefer.

\* \* \* \* \*

(c) He [Pedge] would like to have my "sponsorship" for an appointment to one of the following posts at some time in the next 18 months to 2 years: (a) Secretary of Protocol; (b) Italy; (c) Spain; (d) Portugal; (e) Brazil; and (f) Argentina.

(d) No commitment was made to any of this. It was agreed that I would talk to Maury & HRH and after advising them of our conversation and after being certain of no negatives I'm to so advise Pedge. His pledge would *then* become firm. \* \* \*

\* \* \* \* \*

(f) Any contribution from Pedge is to completely anonymous. (*sic*) [Emphasis in original.]

Some of the efforts of De Roulet to obtain support for a more prestigious ambassadorial post were summarized in a letter from De Roulet to Kalmbach, dated July 12, 1971, which described a visit to Jamaica by John Connally, who, at that time, had recently become head of Democrats for Nixon:

The Connally visit was all plus as he was obviously glad to see me as he got off the plane from Tehran. We literally had hours of long, leisurely, humorous, sometimes serious, conversation. On the way to the airport yesterday, he asked me if I would stay in Jamaica as Ambassador, and I replied, "No, it would not be in the American Government's best interests." He then asked what I would like to do next if the President were reelected. I told Mr. Connally that I would like another mission where there was lots of substantive work in American investment, immigration, and narcotics. I mentioned perhaps Canada or Mexico, or anywhere else that would fit the description, and he stated enthusiastically he thought I would be terrific in Canada or Mexico. There is absolutely no doubt in my mind that if the President is reelected, and Connally is around in any capacity, he will actively lobby for my cause.

We get along very well and our ideology is very close. I would not be surprised if he so indicated to Haldeman on Friday. He asked me what, if any, arrangements I had made and I decided to simply tell him you and I had had some discussions in May of 1970 and as far as I was concerned, the matter was in your hands. Connally's return remark was, "Herb is certainly the man, and you are in the right hands."

De Roulet delivered the balance of his \$100,000 commitment in two installments, \$22,000 in cash to Kalmbach in September of 1971 and an additional \$28,000 in cashier's checks to FCRP in late January 1972. Despite his contributions and other efforts to seek a more prestigious post, De Roulet remained as Ambassador to Jamaica during the 1972 campaign.

Flanigan's account of his involvement in this matter is reviewed in the previous subsection. Unlike the case of Symington, who continued to claim that a commitment existed, Flanigan said with respect to De Roulet:

Based on reports received shortly thereafter, I understood that Mr. De Roulet agreed that no commitment was outstanding, that he did not want his contribution returned, and he continued to hope that he would be favorably considered for a European post. On this understanding, I considered the matter satisfactorily resolved.

The comments of Haldeman, Stans, Strachan, Higby, and Anderson or their attorneys, cited in the discussion of Symington apply as well to this matter.

In August 1973, De Roulet resigned his Jamaica post. He has received no other appointment.

## C. C. V. WHITNEY

Cornelius Vanderbilt Whitney, 74, is a wealthy New York industrialist, whose experience includes Assistant Secretary of the U.S. Air Force, Under Secretary of Commerce, and an officer or director in numerous other business concerns. In a staff interview Whitney stated that he was contacted by Lee Nunn a vice chairman of FCRP, in late April or May of 1971, who asked him to "come through in a big way for Nixon as he was very hard up for money." Whitney told Nunn that he was a strong supporter of President Nixon and would contribute \$250,000 to his campaign.

About two weeks later, Nunn met again with Whitney. Nunn said that he knew Whitney had served his country many times before and that he wanted to know if he was open to Government service. In a staff interview Nunn stated to the committee that raising the subject was his idea and that he had not previously spoken about it with anyone else. When asked by Whitney what he had in mind, Nunn replied, according to Whitney, "an ambassadorship." Whitney told Nunn he felt qualified to serve in Spain, because of his long association with that country beginning in 1950 when, as Under Secretary of Commerce, he had been sent as a Special Envoy to England, Luxembourg, Italy and Spain to help them recover from World War II. As recalled by Whitney, there was a further reference to Whitney's \$250,000 contribution at this meeting. At no time, according to Nunn, was there any discussion of a connection between his fundraising and any sale of an ambassadorship.

Shortly after this meeting, Nunn communicated to Whitney that Attorney General John Mitchell wished to see him. In early June 1971, Whitney, Mitchell and Nunn met in Mitchell's office in the Justice Department. The Attorney General told Whitney how pleased he was that he wished to serve as Ambassador to Spain and that his name would be submitted.

In early June 1971, Whitney made the \$250,000 contribution. During the remainder of the summer, Whitney communicated as to the status of the anticipated appointment with Peter Flanigan who was represented to him as the person in charge of ambassadorial appointments at the White House.

In October or November 1971, Nunn called Whitney and told him that he was returning his \$250,000 contribution. Nunn advised Whitney that should the President submit his name for the post in Spain, Whitney would have to appear before the Senate Foreign Relations Committee for confirmation. There had been publicity over the fact that Senator Fulbright had stated that he would take a dim view of persons up for confirmation who had contributed over \$10,000. According to Whitney, Nunn said that he would then be able to truthfully say that he did not buy the appointment. Nunn also told Whitney, "he should not feel obligated to give one cent of his money to the campaign." At the same time, Whitney gave no indication to Nunn that he was not willing to recontribute the money at some later time after confirmation.

Whitney received two calls from Peter Flanigan in the latter part of 1971. In the first call, Flanigan informed Whitney that there had been a delay in his consideration for appointment. The second call,



in December 1971, was to inform Whitney that his name had been dropped from consideration due to his age.

Before the second call, Whitney's \$250,000 contribution was returned in December 1971 in the form of 50 \$5,000 checks which were dated either November 30, 1971 or December 1, 1971. These checks were drawn on accounts of the Finance Committee for Re-Election of the President at the direction of Nunn.

Despite the fact that both Nunn and Whitney denied that there was any correlation between Whitney's contribution and his desire to become an ambassador, it appears that at no time did Whitney offer to reconstitute the \$250,000. In fact, Whitney stated that he was upset over not receiving the appointment and, because of that, he refrained from contributing any money to the campaign until much later when he made a contribution of \$50,000 to the reelection effort. Nunn testified that "there may have been some feeling at the committee [FCRP] that I should have pressed C. V. Whitney for a greater contribution, but Fulbright's statement was something to be considered."

### III. ROLE OF HERBERT W. KALMBACH IN THE CAMPAIGN

Herbert W. Kalmbach was the chief fundraiser during the first 1½ years of Nixon's reelection campaign. As the President's personal attorney who participated in the 1968 election effort, Kalmbach advised the committee that, beginning in November of 1970 under the supervision of Haldeman, he canvassed scores of potentially large contributors in an effort to obtain early commitments of large contributions for the anticipated reelection effort.

Kalmbach first became involved in the 1972 reelection activities when he agreed to take over control of certain surplus funds left over from the 1968 election. As reconstructed by the committee staff with the assistance of Kalmbach, it appears that in January 1969, when he obtained custody of the surplus funds at the request of Maurice Stans, the surplus amounted to \$1,098,952.20.

As noted elsewhere in this report, deposits to Kalmbach's fund of cash include \$100,000 contributed by the milk producers on August 2, 1969. Also noted elsewhere, among the larger earlier expenditures from Kalmbach's funds were payments to Anthony Ulasewicz and Donald Segretti.

In November 1970, Kalmbach was requested by Haldeman to involve himself in an early campaign fundraising. According to Kalmbach, on a number of occasions, before as well as after the November meeting, Haldeman told him to obtain cash contributions wherever he could. Thereafter, Kalmbach sought out friends in an effort to obtain what amounted to commitments for campaign contributions. Kalmbach states that he never asked for a commitment in so many words, but rather approached people, suggested an amount to them and asked if they would accept that as a "goal figure."

Kalmbach acknowledged that he told contributors that there were different classes of contributors, and he had different "cut-off points," for example, at \$25,000, \$50,000, and \$100,000. Kalmbach said that on occasion he referred to a "100 Club"—meaning contributors who gave \$100,000. He indicated that he told contributors that there were

a lot of people in the \$25,000 class, and if one wanted to be known as a major contributor, he should give more.

Although he did not specifically recall the details of his conversations with George Spater of American Airlines or with George Steinbrenner III, discussed elsewhere, he does not dispute that he might have told them about "special classes" of contributors. Kalmbach stated that he had no idea until 1973 that their contributions came from corporate funds and that, with respect to Spater, he did not know until well after it had been made that the contribution had been given in cash.

Kalmbach said that he did not participate in the industry by industry solicitation program headed by Buckley Byers, discussed elsewhere, with one exception. At the request of Maurice Stans he agreed to solicit the major automobile contributors. He believes that prior to being asked by Stans he had already solicited Henry Ford who made a personal and family commitment of \$100,000. Since Ford indicated the Ford Co. executives were going to contribute through other channels, Kalmbach did not solicit them. In the case of Chrysler, he met Lynn Townsend in Detroit and took his standard approach after asking for a \$100,000 goal.<sup>9</sup> The solicitation of Richard Gerstenburg of General Motors also fit the general pattern. Kalmbach did not solicit executives of American Motors.

Kalmbach stated that his practice was not to become involved in the discussion of specific industry or company or individual problems with the contributor, and he made it known, if the subject came up, that there could be no quid pro quo for any contribution. Kalmbach stated he violated his practice of not making a commitment for a post in return for a contribution on two occasions: in his discussions with J. Fife Symington and Vincent de Roulet, treated elsewhere.

Generally, Kalmbach travelled around the country meeting individually with various potential contributors. One exception to this practice was a White House dinner in mid-November 1970 attended by the President, John Mitchell, and several large potential contributors, Clement Stone, John Mulcahy, Richard Scaife, Kent Smith, and John Rollins, in addition to Kalmbach. There was no discussion of fundraising at the dinner or in the presence of the President, but after the dinner, Kalmbach and the potential contributors discussed what they could be expected to contribute to the 1972 campaign. According to Kalmbach, Stone and Mulcahy each had committed \$1 million in 1971, a second \$1 million in 1972, and a third \$1 million in 1973. if there

<sup>9</sup> There appears to be some confusion over the amount contributed by Chrysler executives to the campaign. Memoranda written by Robert Krattil of the FCRP staff, and other campaign officials credit Chrysler Corporation with \$300,000, but there is no known support for this figure. The Rose Mary Woods list credits Chrysler Corporation employees with contributions totaling \$133,844.09, including contributions by John J. Riccardo of \$16,218.59 and \$1,000. Riccardo has confirmed the \$1,000 contribution but has denied in an affidavit submitted to the Committee any knowledge of the larger contribution, and there are no records or other data to contradict Riccardo's position. Townsend is credited on the Rose Mary Woods list with \$1,500 in contributions which he has confirmed making. Records supplied by Chrysler to the Committee credit its employees with total contributions of \$121,054 to President Nixon, the Republican Party, the National Republican Party, and the Republican National Finance Committee. Of this amount, slightly over \$33,000 is credited in Chrysler's records to "President Nixon," and checks for the remaining amount were endorsed to RNC committees. However, since both Sloan and Paul Barrick (FCRP comptroller) say that their records (and the Rose Mary Woods list) reflected contributions to the President's campaign, alone, it appears that the most reliable figure for Chrysler employee contributions to the President's campaign is that on the Rose Mary Woods list minus the \$16,000 Riccardo contribution, or \$117,626.

was a deficit. In fact, Stone gave \$2 million. Mulcahy gave approximately \$600,000. He did not give more because, according to Kalmbach, he had contributed heavily to the 1970 campaign. Scaife said that he would give \$1 million and gave that amount in 1971. Smith and Rollins did not commit themselves at the dinner but were later seen individually by Kalmbach when each pledged \$250,000.

In all, Kalmbach solicited pledges of over \$13.4 million. In fact, a total of \$10,658,000 was given, with the principal reduction being the case of Mulcahy. Of this total, over \$8.8 million was contributed prior to April 7, with over \$1.8 million after April 7, 1972. Kalmbach emphasized the importance to his solicitation efforts of being able to assure potential contributors that their contributions would remain confidential if made before April 7; Kalmbach was also concerned about having his own solicitation role disclosed. In fact, Kalmbach resigned his position with FCRP when the new disclosure law went into effect on that date.

An undated proposed budget, prepared for the campaign in the spring of 1971 by Jack Gleason and transmitted to Jeb Magruder, lists \$40 million as needed for the campaign. This total was broken down as follows:

	Size of each contribution	Average contribution	Amount
Number of contributors required (1,082):			
7.....	\$1,000,000+	\$1,425,000	\$10,000,000
100.....	100,000+	125,000	12,500,000
125.....	50,000+	60,000	7,500,000
150.....	25,000+	30,000	4,500,000
100.....	10,000+	15,000	1,500,000
100.....	5,000+	7,500	750,000
500.....	1,000+	2,500	1,250,000
Total.....			38,000,000
All other (including direct mail and TV) below \$1,000.....			1,500,000
Total.....			39,500,000

Kalmbach's efforts thus amounted to a commitment for one-third of the total campaign budget, virtually all of which was committed prior to April 7, 1972. Most significant was the proportion of contributions in the highest ranges listed by Kalmbach. Of anticipated contributions of \$100,000 or more, which constituted \$22.5 million of the \$40 million budget, Kalmbach solicited pledges of \$12.725 million, or over 57 percent of the budgeted amount.<sup>10</sup> The list of those persons solicited by Kalmbach, their actual contributions are:

<sup>10</sup> As noted, the amount ultimately realized was less than committed. In terms of actual contributions, Kalmbach was responsible for about \$9.69 million of the total of \$22.5 million required from contributors of \$100,000 and over, or 43% of the amount sought.

INDIVIDUALS SOLICITED BY HERBERT W. KALMBACH AND ACTUAL CONTRIBUTIONS

Name	Address	1972 affiliation	Goal	Pre-April 7 <sup>11</sup>	Post <sup>12</sup>	Total
Annenberg, Walter	Wynnewood, Pa.	Ambassador—Great Britain	250,000	250,000	4,000	254,000
Ashley, Theodore	New York, N.Y.	Warner Bros., Kinney Services	150,000	137,055		137,055
Beckett, McDonald	Los Angeles, Calif.	Welton, Beckett & Associates		12,000	10,000	22,000
Berry, Loren	Dayton, Ohio	L. M. Berry & Co.	100,000	102,000	9,700	111,700
Bobst, Elmer	New York, N.Y.	Warner-Lambert	125,000	100,000	54,500	154,500
Carlson, Edward	Prospect, Ill.	United Air Lines	23,452	23,452	1,500	24,952
Catto, Henry	San Antonio, Tex.	Ambassador—El Salvador <sup>13</sup>	25,000	25,000		25,000
Copley, James	La Jolla, Calif.		50,000	500	29,978	30,478
Crown, Henry	Chicago, Ill.	Henry Crown & Co.	25,000	(C)25,000		25,000
Cummings, Theodore	Beverly Hills, Calif.	Pacific Coast Properties	50-100,000	46,406		46,406
de Roulet, Vincent	Manhasset, N.Y.	Ambassador—Jamaica <sup>14</sup>	100,000	14 (C)100,000	3,500	103,500
Farkas, Dr. Ruth L.	New York, N.Y.	Alexanders Department Store <sup>15</sup>	300,000		15 300,000	300,000
Firestone, Leonard K.	Los Angeles, Calif.	Firestone Tire & Rubber Co. <sup>16</sup>	100,000	100,000		115,100
Fisher, Max	Detroit, Mich.	Fisher-New Center Co.	100,000	(C)125,000	17 125,000	250,000
Ford family	Grosse Pointe, Mich.	Ford Motor Co.	100,000	103,276	24,000	18 127,276
Gerstenberg, Richard	Detroit, Mich.	General Motors	100,000	19 51,012		51,012
Getty, J. Paul	Los Angeles, Calif.	Getty Oil Co.	100,000	75,000	50,000	125,000
Gould, Kingdon	Laurel, Md.	Ambassador—Luxembourg <sup>20</sup>	100,000	100,000	1,900	101,900
Guest, Raymond	King George, Va.		200,000	200,000	1,000	201,000
Heinz, Henry	Pittsburgh, Pa.	H. J. Heinz Co.	100,000		21 103,741	103,741
Hoffman, Wayne	Los Angeles, Calif.	Flying Tiger Corp.	30,000	(C)30,000		30,000
Hume, John	St. Paul, Minn.	Ambassador—Austria	100,000	100,000		100,500
Isbell, Marion W.	Phoenix, Ariz.	Ramada Inn	50,000	41,241	500	41,241
Jones, Thomas U.	Los Angeles, Calif.	Northrop Corp. <sup>22</sup>	100,000	100,000	53,000	153,000
Keith, Williard	do	Marsh, McLennan, Cosgrove & Co.	50,000	56,606		56,606
Lasdon, William	New York, N.Y.	Warner-Lambert	100,000	40,000	69,000	109,000
Levy, Gustave	do	Goldman Sach & Co.	100,000	70,442	21,000	91,442
Lewis, Lawrence	Richmond, Va.	Flagler Hotels	100,000	90,000	6,490	96,490
Liedtke, William	Houston, Tex.	Pennzoil	100,000	23,384	1,000	24,384
McClure, Harold	Alma, Mich.	Patrick Petroleum Co.	50,000		26,100	26,100
McGaw, Foster	Evanston, Ill.	American Hospital Supply Co.	200,000		155,786	155,786
Marshall, Anthony	New York, N.Y.	Ambassador—Trinidad <sup>23</sup>	50,000	48,505		48,505

Maytag, L. B.	Colorado Springs, Colo.	National Airlines	Not solicited	50,000		50,000
Miller, Edward—Employees of	Seattle, Wash.	Time Oil Co.	No goal	<sup>24</sup> 25,000		25,000
Miller, Otto	San Francisco, Calif.	Standard Oil of California	50,000	<sup>25</sup> 50,000		50,000
Mitchell, Charles & Assoc.	New York, N.Y.	City Service	No goal	<sup>26</sup> 28,000		28,000
Moore, John	Dublin, Ireland	Ambassador—Ireland	10,000		10,442	10,442
Mulcahy, John	Bronxville, N.Y.	Quigleyco. (Phifzer Sub.)	3,000,000	573,558	26,000	599,558
Olin, John	St. Louis, Mo.	Olin Corp.	100,000	100,000	4,500	104,500
Spencer				(94,413)		
Pappas, Thomas	Boston, Mass.	Esso Pappas Refinery	100,000	100,672	1,000	101,672
Pfleger, George	Newport Beach, Calif.	Emerson Electric Co.	50,000	47,088		47,088
Robertson, James	San Francisco, Calif.	Goldman Sachs	50,000		32,500	32,500
Riklis, Meshulam	New York, N.Y.	Rapid American Corp.	No goal	50,000	141,000	<sup>27</sup> 191,000
Rockefeller family	do	Rockefeller Foundation	200,000	200,000	69,000	<sup>28</sup> 269,000
Rockwell, Willard F. (employees)	El Segundo, Calif.	N. A. Rockwell	100,000	<sup>29</sup> 98,270	2,500	100,770
Rollin, John	Wilmington, Del.	Rollins International	250,000	245,023	15,500	260,523
Safer, John	Bethesda, Md.	Real estate <sup>30</sup>	250,000	250,000	1,000	251,000
Saluaturi, Henry	Los Angeles, Calif.	Grant Oil & Tool Co.	100,000	99,415	12,458	111,873
Scafie, Richard	Pittsburgh, Pa.	Mellon Banking—Gulf Oil	1,000,000	1,000,000	3,500	1,003,500
Schreiber, Taft	Los Angeles, Calif.	Musica Corp. of America	100,000	66,101	9,700	75,801
Schuler, John	Leeds, Ala.	Anderson Electric Co.	25,000	17,018	10,536	27,554
Shaheen, John	New York, N.Y.	MacMillan Ring Free Oil Co.	100,000		104,000	104,000
Simon, William	do	Salmon Bros.	100,000	<sup>31</sup> 100,000	2,500	102,500
Spater, George	Chicago, Ill.	American Airlines <sup>32</sup>	100,000	75,000		75,000
Stein, Jules	Los Angeles, Calif.	Musica Corp. of America	150,000	117,822		117,822
Steinbrenner, George	Cleveland, Ohio	American Ship Building Co. <sup>33</sup>	100,000	100,000		100,000
Stewart, James E.	Greenwich, Conn.	Lone Star Ind. (Union Oil)	50,000	(C)50,000	47,525	97,525
Stone Clement	Chicago, Ill.	Combined Insurance Co.	3,000,000	2,000,000	73,054	2,073,054
Symington, J. Fife	Paradise Valley, Ariz.	Ambassador—Trinidad & Tobago <sup>34</sup>	100,000	100,000	1,500	101,500
Terra, Daniel J.	Kenilworth, Ill.	Lawter Chemical Co.	250,000	250,000	5,000	255,000
Townsend, Lynn, Employees	Detroit, Mich.	Chrysler Corp. <sup>35</sup>	100,000	<sup>35</sup> 117,626		117,626
Walker, Elisha	New York, N.Y.	Dir., Petroleum Corp. of America	100,000	100,000		100,000
Wallace, De Witt	Mt. Kisco, N.Y.	Readers Digest	100,000	100,000	3,900	103,900
Warner, Jack	Los Angeles, Calif.	Warner Bros.	100,000	100,000	10,500	110,500
Washburn, Mrs. Donald	Corona del Mar, Calif.		50,000	<sup>36</sup> 50,000	10,520	60,520
Watson, Arthur	New Canaan, Conn.	Ambassador—France <sup>37</sup>	300,000	300,000	3,000	303,000
Watson, Tom	Greenwich, Conn.	Chm., Exec. Comm., IBM	25,000		15,500	15,500
Watt, R. A.	Los Angeles, Calif.	Watt Industries	100,000	86,568	4,000	90,568

INDIVIDUALS SOLICITED BY HERBERT W. KALMBACH AND ACTUAL CONTRIBUTIONS—Continued

Name	Address	1972 affiliation	Goal	Pre-April 7 <sup>11</sup>	Post <sup>12</sup>	Total
Webb, Dell	North Hollywood, Calif.	Chm., Del E. Webb Corp.	50,000		87,676	87,676
Willard, Lebaron	Baltimore, Md.	Chm., Commercial Credit Co.	3,000	3,000	6,250	9,250
Whitney, Cornelius V.	Lexington, Ky.	Whitney Industries	50,000	<sup>38</sup> 9,000	42,000	51,000
Total			13,441,452	8,835,040	1,823,356	10,658,396

<sup>11</sup> The totals for the pre-April 7, 1972 contributions came from one of two sources: (a) The "Rose Mary Woods List." This is a list of pre-April 7, 1972 contributors obtained from the White House; (b) The "Common Cause List." This is a list of pre-April 7, 1972 contributors which was ordered filed by Judge Joseph R. Waddy in the case Common Cause, et al v. Finance Committee to Reelect the President, et al. The list was filed in United States District Court, Washington, D.C. on September 28, 1973 by Kenneth Wells Parkinson, attorney for FCRP.

<sup>12</sup> The "GAO List" the totals for the past-April 7, 1972 contributions came from a list supplied the Office of Federal Election of the General Accounting Office (GAO). Section 304 of Federal Election Campaign Act of 1971 requires disclosure of all contributions in excess of \$100 to the Office of Federal Elections.

<sup>13</sup> Appointed Chief of Protocol for the White House on April 2, 1974.

<sup>14</sup> Resigned as Ambassador to Jamaica, August 1973. (See section on Ambassadorships.)

<sup>15</sup> Appointed as Ambassador to Luxembourg in February 1973. (See section on Ambassadorships.)

<sup>16</sup> Appointed as Ambassador to Belgium in March 1974, Chairman of the California Finance Committee to Re-elect the President.

<sup>17</sup> In an affidavit to the Southern District Court of New York, Fisher said \$40,000 came from his safe deposit box at the Detroit Bank and Trust Company and the remaining \$85,000 from personal funds retained in a safe located in his home. This is an approximate total. The contribution was in the form of Marathon Oil Co. stock and was given on January 16, 1973.

<sup>18</sup> Represents contributions by Henry Ford, Mrs. Edsel Ford and Benson Ford.

<sup>19</sup> This figure was obtained from the Rose Mary Woods list under the heading of Employees of General Motors. Gerstenberg's personal contribution was \$3,500 which was included in the total.

<sup>20</sup> Appointed Ambassador to the Netherlands in September 1973.

<sup>21</sup> Includes \$10,000 by Heinz U.S.A., Division of H. J. Heinz & Co.

<sup>22</sup> See section on Corporate Contribution for Northrop Corp.

<sup>23</sup> Appointed Ambassador to Kenya in December 1973.

<sup>24</sup> Listed as employees of Time Oil Co. on Rose Mary Woods list.

<sup>25</sup> Listed as employees of Standard Oil of California on Rose Mary Woods list. Listed as Otto Miller and Associates on the Common Cause list.

<sup>26</sup> Listed as Employees of City Service on the Rose Mary Woods list and as Charles Mitchell and Associates on the Common Cause list. Mitchell is deceased and no one at City Service acknowledges to any knowledge of the contribution.

<sup>27</sup> Riklis also gave Hubert Humphrey \$100,000.

<sup>28</sup> Includes contributions by David John and Lawrence Rockefeller and Abby R. Mauze.

<sup>29</sup> Rose Mary Woods list under employees of North American Rockwell. Common Cause list shows Rockwell personally contributed \$1,510 prior to April 7, 1972.

<sup>30</sup> See section on Ambassadorships.

<sup>31</sup> Rose Mary Woods list as employees of Salomon Bros. Common Cause list credits Simon with \$15,000 pre-April 7, 1972.

<sup>32</sup> See section on Corporate Contributions for American Airlines, Inc.

<sup>33</sup> See section on Corporate Contributions for American Ship Building Co.

<sup>34</sup> Resigned as Ambassador to Trinidad and Tobago in November 1971. At that time he had already agreed to a contribution. (See section on Ambassadorships.)

<sup>35</sup> See above section for more detail.

<sup>36</sup> Rose Mary Woods list shows the contribution was Ms. Donald M. Washburn but Common Cause list indicates it was from Gene Washburn.

<sup>37</sup> Resigned as Ambassador after making contribution.

<sup>38</sup> Whitney contributed \$250,000 in June 1971 which was returned in October or November 1971. For more details see section on Ambassadorships.

#### IV. UNION ACTIVITY

Labor unions, with membership in excess of 18 million and assets in excess of \$4 billion, are at the very least one of the most potent political forces.

As noted in the section of this report on the results of questionnaires sent to union officials, union political action arms played a major funding role in the Presidential campaign of Senator McGovern. Although using a bipartisan approach, most of the principal unions directed their major efforts to giving support for Senator McGovern.

Two instances of the activities of unions and their political action arms warrant comment—one involving the United Farm Workers, AFL-CIO and the Farmworkers Political Education Fund and, the other, the Seafarers International Union and the Seafarers Political Action Donation Committee.

##### A. FARMWORKERS POLITICAL EDUCATION FUND

One unusual instance wherein campaign contributions were furnished to a union came to the attention of the committee through the testimony of Ms. Delores Huerta. On October 26, 1973, Ms. Huerta, in testimony before the Senate Select Committee, described the activities and relationship between the 1972 Presidential committee, El Pueblo con McGovern, and United Farm Workers, AFL-CIO, and the Farm Workers Political Education Fund.

Ms. Huerta furnished information to the committee concerning the participation of union members in political activities for the McGovern Presidential campaign and furnished documents with regard to the funding of these activities. The entire amount of money raised by El Pueblo con McGovern, a campaign committee composed of union leaders and supporters, in 1972 was contributed to it by various McGovern campaign committees, including McGovern Central Control Fund, a Presidential committee, in a total amount of \$75,200. A breakdown is as follows:

Contributions (or transfers) to El Pueblo con McGovern:	
McGovern Central Control Fund (5/23/72)-----	\$5,000
McGovern Central Control Fund (5/30/72)-----	12,500
McGovern Central Control Fund (6/2/72)-----	25,000
Democratic National Committee (8/24/72)-----	10,000
Democratic National Committee (9/28/72)-----	1,200
McGovern Campaign Committee (9/12/72)-----	10,000
Northern California McGovern Campaign Committee (9/14/72)----	1,500
Total contributions from McGovern campaign-----	75,200
Other contributions:	
United Farm Workers, AFL-CIO (this contribution is an error on reports and should be considered an expense) (10/31/72)-----	1,503.74
Miscellaneous-----	16.75
Total contributions-----	76,720.49

Total expenditures of El Pueblo con McGovern were \$72,586.34. Of this amount, a total of \$36,593.28 went directly to United Farm Workers, AFL-CIO or its satellite groups for the reasons detailed below:

United Farm Workers, AFL-CIO, "reimbursement for office rent, overload and buses" (7/25/72) -----	\$4, 921. 30
National Farm Workers Service Center, Inc. "office rental" (8/30/72) -	113. 86
United Farm Workers, AFL-CIO "reimbursement for personal services" (7/25/72) -----	11, 538. 00
Robert F. Kennedy Farm Workers Medical Plan "reimbursement for personal services" (6/6/72) -----	700. 00
National Farm Workers Service Center, Inc. "reimbursement for personal services" (6/5/72) -----	1, 230. 00
United Farm Workers, AFL-CIO "reimbursement for personal services office overhead and supplies" (10/16/72) -----	8, 515. 00
National Farm Workers Ministry "office overhead and supplies" (10/7/72) -----	1, 172. 43
National Farm Workers Service Center "office rental" (10/7/72) -----	115. 82
	<hr/> 36, 593. 28

Ms. Huerta testified that in August of 1973 the McGovern Central Control Fund gave to the Farm Workers Political Education Fund a remaining cash balance in the amount of \$4,134.15 as "a gift." This \$4,134.15 came to the McGovern Central Control Fund from El Pueblo con McGovern when that committee terminated its activities.

#### B. SEAFARERS POLITICAL ACTION DONATION COMMITTEE

The Seafarers Political Action Donation Committee (SPAD) was established by the Seafarers International Union in 1962 for the purpose of "accepting voluntary contributions by rank and file members of the union and to make disbursements on their behalf for political purposes." On October 31, 1972, SPAD applied to the Chemical Bank of New York for a loan of \$100,000. The next day, November 1, loan agreements were reached, \$100,000 was placed in SPAD's account with the bank, and the following day a check for \$100,000 was made payable to the Finance Committee To Re-Elect the President.

According to John Wynne, general counsel of the Chemical Bank of New York, and Leo Schneider, vice president of Chemical Bank, the bank was initially contacted by Ralph Buchbinder, an accountant retained by the Seafarers, by telephone on October 31, 1972. Schneider then prepared a memorandum concerning the loan that same day and forwarded it to bank vice president Frank Fredericksen who is the vice president in charge of "political loans." Fredericksen approved the loan because it seemed to be, in all respects, legal to him.<sup>39</sup> Fredericksen stated that he had the final say on whether the loan was approved and any discussions of the loan did not go any higher than himself.<sup>40</sup> The loan was supposed to have been repaid in 3 to 6 months, but the final payment was not received until October 16, 1973.

Howard Schulman, general counsel for the Seafarers Union and SPAD, and DiGiorgio, in staff interviews, corroborated the above account. They explained that Mr. Nixon's record in aiding the revitalization of the maritime industry had prompted the contribution. They produced a statement issued by Paul Hall, president of the Seafarers International, on October 19, 1972, announcing the formation of the National Maritime Committee To Re-Elect the President. Hall

<sup>39</sup> When asked as to whether he had taken section 610's ban on Union moneys raised through "commercial transactions" into account, he said that he was unfamiliar with this provision. In addition, section 610 requires that unions can raise political contribution funds only from the voluntary acts of its members. Thus, it appears that the ability of SPAD to repay the loan would depend upon the willingness of SIU members to contribute.

<sup>40</sup> The Chairman of the Bank's Executive Committee, Harold B. Helm, was co-chairman of FCRP.



was the national chairman for this committee which represented management and labor from all segments of the maritime industry. In his statement, Mr. Hall listed five definitive actions, including the passage of the Merchant Marine Act of 1970, the first new maritime legislation since 1936, taken by the Nixon administration to strengthen the maritime industry. At the conclusion of his statement, Mr. Hall said, "We, in the maritime industry, have found, on the basis of performance, that we can believe in Richard Nixon. We in the maritime industry, therefore, support his candidacy for reelection."<sup>41</sup> Both men interviewed indicated that they knew of no solicitation of any union or SPAD official by officials of the FCRP.

The \$100,000 check for the Finance Committee To Re-Elect the President was delivered to Herbert Brand, president of the Transportation Institute of Washington, D.C., because he was a member of the Maritime Committee To Re-Elect the President and was located in Washington, D.C. Brand, in a telephone interview, said he was not aware of the Seafarers' contribution until it was delivered to him on November 3, 1972. He said he delivered the check to FCRP headquarters in Washington on November 6 and gave it to Tom Evans because he was the only person that he knew there.<sup>42</sup>

The Select Committee—whether by its questionnaires or its limited investigations—made no attempt to engage in a comprehensive survey of union political activity. It is believed, therefore, that an appropriate committee of Congress should review certain questions not considered in detail by this committee. Among these questions are:

1. What is the structure and nature of union political and educational committees?
2. What are the techniques by which the rank-and-file membership are solicited to participate with their dollars?
3. To what extent is the participation by union membership voluntary, and what pressures, if any, are brought to bear to insure participation?
4. Is there a minimum level (dollars) of required or expected participation?
5. After having participated, what voice does the union member have in the decision relating to the ultimate distribution of the funds collected?
6. What accounting is made to the union member concerning the use of his political contribution?
7. Are the representations and educational materials made available to union members broad in spectrum or related to a specific candidate and party?
8. Are individual union members afforded the opportunity to have their political views published in in-house organs

<sup>41</sup> On June 30, 1970, Paul Hall, seven other union officials, and SIU were indicted for violations of the Corrupt Practices Act on charges of conspiracy to contribute union funds to a political campaign. In May 1972, the case was dismissed by the U.S. District Court sitting in Brooklyn for failure on the part of the Justice Department to prosecute the case. The Justice Department decided not to appeal the dismissal. Union officials state that there was no connection between these events and SPAD's contribution, and no evidence has been found to contradict these statements.

<sup>42</sup> The contribution was not reported for two months. Section 304(a) of the Federal Elections Campaign Act of 1971 states that "any contribution of \$5,000 or more received after the last report is filed prior to the election shall be reported within 48 hours after its receipt."

when they differ from the publicly stated position of the principal union executive?

9. Is the public endorsement by the union executive based on a vote of the union members?

## V. ROBERT H. ALLEN—MEXICAN CHECKS

A search by police of the five men arrested in the "Watergate burglary" on June 17, 1972, produced \$6,500 in new \$100 bills, most of which were serially numbered. In the process of tracing these bills it was discovered that five checks totaling \$114,000 originally contributed to the Finance Committee To Re-Elect the President had been run through an account of one of the Watergate burglars, Barnard Barker. Four of these checks, totaling \$89,000, had been drawn on an account in the Banco International of Mexico City and were payable to Manuel Ogarrio Daguerre (Ogarrio), a Mexican national.<sup>43</sup> Shortly afterward, it was established that Ogarrio used a \$100,000 check drawn on the account of the Compania de Azufre de Veracruz, S.A. (hereafter referred to as CAVSA), to negotiate the four bank drafts. CAVSA is a wholly owned subsidiary of Gulf Resources and Chemical Co., Houston, Tex.

The sequence of events that set this transaction in motion had its origin in late 1971 or early 1972, when a group of prominent Houston area businessmen joined together to form a loosely knit organization known as the "Texas ad hoc Fund Raising Committee." The purpose of this committee was to raise funds for the President prior to the effective date of the new disclosure law on April 7, 1972. Included among the members of the group were William Liedtke, the president of Pennzoil and the unofficial chairman of the ad hoc committee; Roy Winchester, Pennzoil's vice president in charge of public relations; and Robert Allen, the president of Gulf Resources and Chemical Co.

On March 10, 1972, Maurice Stans met with the ad hoc committee in Houston to discuss their fundraising activities. A few days after this meeting, Liedtke said he received a call from Allen who informed him "he could raise some funds, United States funds in Mexico."<sup>44</sup> Allen, who had met Stans for the first time on the 10th, asked Liedtke "to check with Maury and see if that created any problems."<sup>45</sup> Allen testified he asked Liedtke "to see if there were any problems with a U.S. citizen making a contribution through Mexico."<sup>46</sup> Liedtke called Stans who indicated he would get back to him later with an answer.

Allen has since confirmed the citizen he was referring to above was himself, and the reason he was considering Mexico was his desire to maintain his anonymity. He stated:

When I spoke to Liedtke, a sort of vague or undecided route was to sell securities that I had and to make a transfer to another bank, perhaps a Mexican bank . . .

. . . I knew full well if I made a contribution in the usual manner, that is to just write a check to Liedtke, that first of all my bankers would know and secondly my stockholders

<sup>43</sup> The fifth check was the Dahlberg-Andreas check for \$25,000. What are popularly referred to as the Mexican checks are technically termed bank drafts.

<sup>44</sup> Statement of William Liedtke, Sept. 6, 1973, p. 10.

<sup>45</sup> *Ibid.*

<sup>46</sup> Allen executive session, June 7, 1974, p. 45.

would know and I would have to assume in our stockholder group, and there would be the usual speculation about why I made the contribution and I would expect from it the usual unfavorable let's say distasteful aspect of it.<sup>47</sup>

Allen testified that between March 10 and March 21 he discussed with his attorney, Richard Haynes, the legality of a contribution made in this manner. When asked about the context of the conversation Allen invoked attorney-client privilege.<sup>48</sup>

On March 21 Allen went to Mexico City to see Ogarrio, who for many years had been retained by CAVSA as its labor counsel. The stated purpose of the Allen meeting with Ogarrio was to discuss a fee allegedly owed to Ogarrio by CAVSA for work done in connection with the shutdown of CAVSA in 1970.<sup>49</sup> Allen stated Ogarrio "had the assignment of complying with the labor law, which basically says that we had to pay each man 3 months plus 30 days for each year worked for us, and getting approval from the labor department and getting negotiations completed with the union to accept whatever plan was adopted."<sup>50</sup> Also, because of a new labor law being enacted, it was necessary for these negotiations to be completed prior to mid-1970. Allen related, Ogarrio not only satisfactorily completed his work prior to the enactment of the labor law, thereby saving the company a substantial amount of money, but secured a settlement for \$250,000 less than the company's reserve for the settlement. Ogarrio was to be compensated above his retainer for these services.

Allen stated the reason Ogarrio had not been paid earlier by CAVSA was that the fee asked by Ogarrio was considered too high, and Diaz de Leon, president of CAVSA, had requested Allen to speak with Ogarrio personally. De Leon sent Allen a memorandum<sup>51</sup> to this effect which is dated December 17, 1971. Allen also stated that on numerous occasions De Leon had orally requested that Allen speak to Ogarrio. Allen said because of other pressing matters, March 21, 1972 was the first opportunity he had to see Ogarrio.

Allen claimed that Ogarrio had been orally requesting a \$250,000 fee,<sup>52</sup> even though he, Ogarrio, had submitted a bill to De Leon on July 7, 1971 for \$125,000.<sup>53</sup> Allen explained that this \$125,000 statement was not a final bill but rather a negotiating document and that despite its submittal Ogarrio was still discussing a \$250,000 fee.

Ogarrio, Allen, and De Leon met immediately after Allen's arrival in Mexico City on the 21st. Allen related that they had a candid meeting in which fees ranging from \$250,000 amount downward to the \$125,000 bill and below were discussed. Allen said that no final settlement was reached and that he instructed Ogarrio "to go back and

<sup>47</sup> Allen executive session, June 7, 1974, p. 51; if Allen planned to sell securities as he stated, there would be no need for a Mexican bank, as he could negotiate the brokerage firm's checks into cash anywhere. Experienced fundraisers know, as Allen did when he mentioned it to Liedtke, that cash is the most anonymous way to contribute.

<sup>48</sup> Allen executive session, June 7, 1974, p. 48. Allen later indicated that Stans had answered him before he was able to talk with Haynes. Stans and Liedtke both testified the opinion as to the propriety of the transaction was not given by Stans until April 3.

<sup>49</sup> CAVSA ceased its mining operations in the late 1960's but has continued to function on a limited basis ever since.

<sup>50</sup> Allen executive session, June 7, 1974, pp. 16 and 17.

<sup>51</sup> Allen executive session, June 7, 1974. The memorandum is a full page in length and according to Allen, was personally typed by De Leon.

<sup>52</sup> This figure represented the difference between the reserve and the amount actually expended on the entire amount which Ogarrio says he saved CAVSA.

<sup>53</sup> Allen executive session, June 7, 1974. Allen identified the handwriting as belonging to De Leon. Creel was associated with Ogarrio in the practice of law in Mexico City.

sharpen his pencil." When asked if there was any further discussion concerning the amount of the bill Allen replied: "We left it in a very cordial way, that he would communicate with Diaz de Leon and let Peppy (De Leon) know what his bottom line was, and my clear indication to him was that we would pay it."<sup>54</sup>

Allen said he had no discussions with Ogarrio concerning this fee subsequent to this meeting.

Allen and Ogarrio met again on the 24th, Allen's last day in Mexico. Allen said at this meeting, for the first time, he turned to the question of raising money to make his contribution to FCRP. However, he decided not to disclose to Ogarrio the intended purpose of the needed money. Allen described this meeting with Ogarrio:

On that Friday or the last day that I was there I had lunch with him and told him that I had a project that I was contemplating pursuing, and that it would require short term financing or some short term financing; and that I had concluded that I wanted to arrange to obtain financing outside the eastern area, and that I was undecided; I had not determined what the amount would be, but it would be no less than \$50,000 and no more than \$100,000, and that I wanted his advice on what sort of collateral he felt might be required for such financing from a Mexican bank, pointing out to him that I knew people in the banks there very well and having done as much business as we have done, and that how long did he think it would take. I explained to him, if I did not get it done by April 1 I was not going to pursue it.

His response was that was I aware Holy Week was coming up and the banking community closes down in Mexico on Holy Week, as most other businesses, and that that might interfere with it. But he felt that there would be no problem. He asked me what kind of collateral I might have available. I told him I could put a substantial amount of money on deposit as an example, or I could perhaps use stocks as collateral, something of that nature.

And I told him that I might even be able to arrange a guarantee from a U.S. bank if that was necessary. In other words, we agreed that there was collateral. So that was the nature of my explanation.

He said, well, that he was not—as I say, this was on Friday, I believe—that he was not sure that it would be possible to get it done before April 1. But maybe a few days after that. Without telling him why, I just said April 1 was my sort of personal deadline. I either had to do it by then or I was not going to pursue that route. He said, well, if we are only talking about for the short term financing. I said, no more than 180 days.

He said, that should not take us more than a couple of weeks to get it done anyway, even with the financing. When are you coming back? I said, I will be back again next week or within the next 10 days.

He said, well, if there is any real problem and you really are concerned about April 1, I will advance you the money

<sup>54</sup> Allen executive session, June 7, 1974, p. 39.

you need. We talked about that a little bit. You know, first I said I would not want you to do that. He said, well, I insist. You know, the usual sort of things that particularly Mexican businessmen or friends like he would say. So I said, well, in that case if I decide to do it I will leave a note and I will get right down to it and get it done. And that was the total substance of our conversation.<sup>55</sup>

Despite having told Ogarrio that he would be back in the next week to 10 days when he would complete the transaction, Allen stated that:

I went back to the office either that afternoon, or before I left town, anyway, and typed up a very simple promissory note,<sup>56</sup> one that was designed to indemnify or at least to protect, to protect Manuel if I got run over by a truck or something, and put it in an envelope, signed it, left the dates blank, handed it to Diaz de Leon and told him I might want him to take care of some business for me that had to do with Manuel Ogarrio, and I'd be in touch.<sup>57</sup>

The note prepared by Allen personally was for the amount of \$100,000, the higher of the two amounts, according to Allen, that he had mentioned to Ogarrio.

Allen said he called Ogarrio after writing the note, but before leaving town, and told him that either he or De Leon would be in touch with him if he decided to go through with the project. On the way out of Mexico, Allen said that De Leon "told me that Manuel (Ogarrio) had called him and said that he was going to pare his \$125,000 bill by \$25,000, but he was going to add back some expenses."<sup>58</sup> When Allen got back to Houston he told Arthur Urech, vice president of finance, "that the matter with Ogarrio had been settled and Diaz de Leon would be talking about it; and I thought the settlement was \$100,000 to go ahead and process it."<sup>59</sup>

On April 3, 1972, Liedtke called Stans, because he had never received an answer for Allen on the Mexican funds. Stans told Liedtke to call back that afternoon, and he would have an answer.<sup>60</sup>

Stans testified at public session:

On April 3 of last year, I received a telephone call from Liedtke who was then our finance chairman for the State of Texas. He said, "I have a U.S. citizen residing in Texas, who is a prospective contributor for \$100,000, but he wants to give it in U.S. funds that are now in Mexico. Is this legal?" I said, "I am quite sure it is, but let me check again and I will call you back."

<sup>55</sup> Allen executive session, June 7, 1974, pp. 49-51.

<sup>56</sup> Allen executive session, June 7, 1974, exhibit 6, p. 54.

<sup>57</sup> Allen executive session, June 7, 1974, p. 54.

<sup>58</sup> Allen executive session, June 7, 1974, p. 70.

<sup>59</sup> Allen executive session, June 7, 1974, p. 70. Although, according to Allen, he had talked to Ogarrio twice before leaving Mexico City, a fee settlement was never again mentioned. When first interviewed by committee investigators, on Sept. 4, 1973, Allen related that he did not know the exact amount of the settlement or when it was paid. In a telephone interview in June 1974, Urech said that Allen, upon returning from Mexico told him that a settlement with Ogarrio was at hand and to check with De Leon. Urech did not think that Allen mentioned how much the settlement was going to be.

<sup>60</sup> Statement of William Liedtke Sept. 10, 1973, p. 10.

I checked with our counsel, found it was perfectly legal for a U.S. citizen to give any foreign funds he wanted, and called back to Liedtke and told him so.<sup>61</sup>

Liedtke notified Allen it was all right to bring the funds up.

On April 3, apparently without further word from Ogarrio as to the amount of the settlement, \$100,000 was telephonically transferred from Gulf Resources & Chemical Co. to the CAVSA account at the Banco International.<sup>62</sup>

According to Allen, this payment was received by CAVSA and converted to a check to Ogarrio dated April 4, 1973. Allen testified that on April 4 he was in New York, and he called De Leon from the airport there. Allen told De Leon to fill in the April 4 date on the note also; "I told him to deliver the envelope to Mr. Ogarrio, to assist him in any way that he could, to take the proceeds of the note and to deliver them to Mr. Winchester's office at Pennzoil."<sup>63</sup> Ogarrio had received no further notice regarding the loan since he and Allen talked on March 24. Allen also told De Leon to obtain cash from Ogarrio and instructed him when the money had to be there.

In addition to the envelope which Allen says De Leon delivered on the 4th, De Leon also took Ogarrio a CAVSA check for \$100,000 in payment of Ogarrio's bill. (A report by the accounting firm of Arthur Anderson & Co. to the audit committee of Gulf Resources & Chemical Co. dated May 4, 1973, notes that they were unable to locate either an invoice or receipt in support of the \$100,000 payment to Ogarrio.)

Allen acknowledged that between speaking with Ogarrio on March 24, and the delivery of the note to him on April 4, he had not communicated with Ogarrio. He also acknowledged that there had been no agreement as to an interest rate even though in typing the note he stated an interest rate of 10 percent per annum. In fact, although Allen said that he and Ogarrio were talking about a loan in the range of \$50,000 or \$100,000, he proceeded to prepare the note for \$100,000 without further raising the question with Ogarrio.

According to Allen, De Leon attempted to comply with his instructions. However, he encountered difficulties. De Leon called Allen later on the 4th to inform him that they were not able to secure enough cash. After some discussion, a combination of bank drafts and cash were decided upon and the proceeds were given to De Leon.

Per Allen's instructions, De Leon delivered \$100,000 consisting of four checks totaling \$89,000 and \$11,000 in cash to Winchester and Liedtke at Pennzoil's office in Houston on the afternoon of April 5. As recounted by Liedtke and Winchester, De Leon asked for a receipt but Liedtke related: "I told him that we didn't want to give him a receipt, that he could get a receipt from Washington, that we were

<sup>61</sup> 2 Hearings 699.

On Aug. 30, 1972, House Banking and Currency Committee investigators interviewed Stans. According to that Committee's report, Stans was asked three questions: (1) Have you at any time authorized the transfer of campaign funds—through a foreign country? (2) Have you participated in any way in plans to transfer campaign funds to Mexico or any other nation and (3) Have you at any time been aware that any State or local finance committee of the Republican Party at any level has been engaged in the transfer of funds to Mexico or any other country? The report states that to each of these questions Stans gave a one word answer, "no."

<sup>62</sup> Urech said that he was notified by De Leon on April 2 or 3 that a settlement had been reached with Ogarrio and the \$100,000 was needed. When asked if either De Leon or Allen had expressed an interest in transferring the money immediately, Urech said Allen had not, but he could not recall whether De Leon had or had not.

<sup>63</sup> Allen executive session, June 7, 1974, p. 61.

merely agreeing to transmit the funds to Washington \* \* \* De Leon did not mention the source of the funds.

The \$100,000 was placed in a suitcase which already contained some \$600,000 raised by six other ad hoc members. Late that afternoon Winchester and another Pennzoil employee flew to Washington by a Pennzoil Co. jet. At 10 p.m. on the evening of April 5, Winchester delivered the \$700,000 to Hugh Sloan at FCRP headquarters in Washington, D.C. The following day Winchester went back to FCRP headquarters to give an accounting of the funds. With regard to the \$100,000 raised in Mexico, Winchester said he listed Allen as the person who raised the money. Asked why he did not list Ogarrio as the donor of the \$89,000, Winchester and Liedtke said they knew that Ogarrio was not the donor. Asked further how they could be sure of this, they replied, "We just knew."<sup>64</sup>

Sloan testified that he received the four Mexican checks from Winchester,<sup>65</sup> but was unsure how they were to be handled. He checked with Stans, and out of this conversation, it was decided to seek the advice of committee counsel G. Gordon Liddy. It was decided that Liddy would take care of the checks.

Liddy took the five checks to Florida where he asked Bernard Barker to cash them. Barker returned the proceeds to Liddy some weeks later. Liddy then placed the funds, less \$2,500 for "processing," in a safe in Stans' office where they were commingled with other cash funds.

On or about July 7, after it was discovered that the Mexican checks had gone through Barker's bank account, Frederick La Rue, an FCRP official, called Roy Winchester to ascertain the source of the funds. Winchester put La Rue in touch with Allen. La Rue warned Allen that the FBI would be contacting him and Ogarrio. Allen, in turn, contacted Ogarrio through De Leon to alert him of an impending visit. According to an FBI report, when interviewed by agents on July 10, 1972, Ogarrio advised them that:

"\* \* \* he was given a check for \$100,000 which he negotiated into the foregoing four bank drafts and cash \* \* \* as a favor to an American client for 20 years standing who he refused to identify other than as a reliable American company with operations in Mexico, continuing he said, he signed the checks making them negotiable and turned them and the remaining \$11,000 cash over to his client \* \* \* and he believed the purpose of the transaction was to convey the money to the Republican Party anonymously."<sup>66</sup>

Subsequent to the La Rue-Allen telephone conversation, Allen, Winchester, and La Rue met in Pennzoil's apartment in the Watergate complex. Allen said he told La Rue "unless this can be straightened out right away, we just want the money back."<sup>67</sup> La Rue said he never discussed the return of money with Allen.

Allen appeared before a grand jury in Houston, Tex., on September 7, 1972. According to an FBI account, he told the jurors that the \$100,000 contribution was a personal contribution by him. Allen con-

<sup>64</sup> Report by the House Banking and Currency Committee; Sept. 12, 1972.

<sup>65</sup> Sloan, 2 *Hearings* 574.

<sup>66</sup> From FBI memorandum dated July 18, 1972, from an interview with Ogarrio on July 10, 1972. Ogarrio has refused to make himself available to committee investigators. Likewise, De Leon would not permit himself to be interviewed.

<sup>67</sup> Allen executive session, June 7, 1974, p. 91.

ceded to the committee that in his testimony he did not refer to the existence of the promissory note, which was the only physical evidence documenting the \$100,000 loan to him by Ogarrio. Allen said he was not asked for the note nor did he voluntarily submit it.

Throughout the fall, Allen said he continued to have discussions with Stans, Parkinson, LaRue, and others. Allen explained:

That, plus on numerous occasions I have said that the way I think this can be solved best is just give me my money back; agonizing with them about the timing—you know, what sort of publicity would come out about it; quite candidly I was as worried about doing anything at all that would interfere with the election. I was finance chairman for the State of Texas. There was a certain amount—there certainly, perhaps, would have been a negative kind of indication to the people that I was trying to get contributions at that time, if I in fact had asked for money or had gotten it back. At the same time, of course, I was spending practically every day trying to ward off the press, who were making the most God-awful assumptions about the whole matter. You dream of them, they made them.<sup>68</sup>

In addition to Allen, his attorney, Haynes had conversations with Parkinson and LaRue that concerned Allen's contribution. When asked to disclose the nature of these conversations, attorney-client privilege was again invoked, even though these conversations were between Haynes and third parties who were not his clients. The promissory note came payable on October 2, 1972. Allen said that he told De Leon to "tell Manuel Ogarrio that I am ready to do something." According to Allen:

By this time Ogarrio was in such terrible straits about the way he was being pillaried and maligned by the press in Mexico, his view was, look, let's just do nothing until we see this whole thing through. I know precisely what the situation is, and we both feel uncomfortable about it. So I would say, by his request, or mutual agreement, it was decided that I would not pay the note until sometime he felt comfortable about it.<sup>69</sup>

Six weeks later on November 16, 1972, Allen sent Ogarrio a personal check for \$100,000. The funds used by Allen to cover his check were obtained by borrowing \$100,000 from a commercial bank. The loan was a standard bank loan for 90 days.

It was not until December 15, 1972, that Allen paid the interest owed on the Ogarrio note. He explained that "Ogarrio was suggesting perhaps a substantial or meaningful fee ought to be tacked onto this as a result of his considerable, because of the inconvenience, let's say, that he experienced, and perhaps the damage to his reputation, the time spent, and so on."<sup>70</sup> No such charge was ever levied.

Allen wrote to Stans on January 23, 1972, asking that his \$100,000 be returned. In the last paragraph of his letter Allen states: "In addition to the above, there are personal reasons why I must request that my contribution be returned." A \$100,000 check was drawn on the

<sup>68</sup> Allen executive session, June 7, 1974, p. 95.

<sup>69</sup> Allen executive session, June 7, 1974, pp. 103-104.

<sup>70</sup> Allen executive session, June 7, 1974, p. 105.



account of the Media Committee to Re-Elect the President and was given the following day.

Three days later, on January 26, 1973, Allen issued a check payable to the Republic National Bank of Houston to repay his \$100,000 loan, which had been used to repay the Ogarrio loan.

When asked about his net worth, Allen indicated it was between \$1 million and \$1.6 million, depending on the stock market. However, on a balance sheet supplied by Allen to the Republic National Bank on October 31, 1972 by Allen, he lists his net worth at \$782,000. Thus, the \$100,000 represented a contribution of 12.7 percent of his net worth to President Nixon's reelection campaign.

In deciding on the amount of his contribution Allen testified: "It was not related to my net worth, really. It related to what I thought would be a meaningful size contribution in relation to what I would do for the next 4 years or maybe longer."<sup>71</sup>

The question of the Mexican checks surfaced again in the edited transcripts of Presidential conversations. According to the transcripts on March 13, 1973, John Dean and the President discussed the Allen contribution:

DEAN. Anyway, I don't care about that. What happened to this Texas guy that gets his money back? Was he—all hell broke loose for him that week. This Allen.

PRESIDENT. No, no. Allen——

DEAN. Allen, not Duncan nor [unintelligible]. All hell broke loose for Allen for this reason: He—the money apparently originally came out of a subsidiary of one of Allen's corporations down in Mexico. It went to a lawyer in Mexico who put it down as a fee billed to the subsidiary, and then the lawyer sent it back into the States, and it came back up here. But the weakness of it is that the Mexican lawyer: 1. Didn't have a legitimate fee; 2. It could be a corporate contribution. So Allen had personally put a note up with the corporation to cover it. Allen, meanwhile, is having problems with his wife, and a divorce is pending. And tax problems——

PRESIDENT. [Inaudible] Watergate——

DEAN. I don't know what that went in the letter. It wasn't used for the Watergate. That is the interesting thing.

PRESIDENT. It wasn't?

DEAN. No it was not. What happened is that these Mexican checks came in. They were given to Gordon Liddy, and said, "why don't you get these cashed?" Gordy Liddy, in turn, put them down to this fellow Barker in Florida, who said he could cash these Mexican checks, and put them with your Barker's bank account in here. They could have been just as easily cashed at the Riggs Bank. There was nothing wrong with the checks. Why all that rigmarole? It is just like a lot of other things that happened over there. God knows what [why] it was all done. It was totally unnecessary and it was not directly involved in the Watergate. It wasn't a wash operation to get money back to Liddy and the like.<sup>72</sup>

<sup>71</sup> Allen executive session, June 7, 1974, p. 111.

<sup>72</sup> Presidential transcripts, March 13, 1973; pp. 137-138.

When asked by the committee staff about the basis for his statement to the President, Dean said that he had no specific information concerning the source of Allen's contribution and was speculating.

During his committee executive session, Allen was asked about the alleged corporate source of the contributions:

DORSEN. As a conclusory question, Mr. Allen, was there any connection between the payment of a fee to Ogarrio for and your obtaining \$100,000 from Ogarrio as a means to make a contribution to the President's reelection campaign?

ALLEN. None.<sup>73</sup>

## VI. NATIONAL HISPANIC FINANCE COMMITTEE— BENJAMIN FERNANDEZ AND JOHN PRIESTES

One aspect of the Hispanic campaign effort was presented in public hearings on November 7 and 8, 1973 through the testimony of John Priestes, a Miami, Fla. builder, and Benjamin Fernandez, chairman of the National Hispanic Finance Committee (NHFC), an arm of the Finance Committee To Re-Elect the President. In February 1972, Fernandez formulated the idea of a Hispanic finance committee to solicit funds from Spanish-speaking citizens and presented it to Maurice Stans, who gave it his approval. With an original goal of \$1,000,000, Fernandez managed to raise only about one-third of that total.<sup>74</sup>

Priestes' potential as a contributor came to Fernandez' attention in late February 1972 at a cocktail party in Florida. According to Fernandez, Carlos Nunez, a former associate of Priestes', told him, after he had been introduced as chairman of the National Hispanic Finance Committee, that a potential contributor was John Priestes. Priestes, although not Spanish-American, was well known in that community and had been active as an FHA contractor, building large numbers of federally insured low-cost housing in Dade County, Fla.<sup>75</sup> At that time, Priestes was receiving considerable publicity in the Miami Herald which was describing an intense investigation of Priestes into charges of FHA fraud and his imminent suspension by the FHA.

Nunez provided the committee with an affidavit describing his conversation with Fernandez, which included his statement to Fernandez that "with all the problems at that time, I didn't know if he (Priestes) would be in the position to make any contribution."<sup>76</sup>

Fernandez decided to pursue the lead. He called Priestes and arranged to meet him the next day. As recounted by Priestes, he and Fernandez discussed his problems with the FHA, and Fernandez indicated that he knew of Priestes' problems and was in a position to

<sup>73</sup> Allen executive session, June 7, 1974, p. 128.

<sup>74</sup> 13 *Hearings* 5362-64, 5401. Although Fernandez stressed that he was engaged in a selfless effort to work for the twin goals of enhancing the future of the President and Spanish-speaking Americans, it appears that Fernandez' own future was occasionally on his mind. Thus, Fernandez did not dispute Priestes' testimony that in their talks Fernandez mentioned his interest in becoming Secretary of Commerce, but indicated that he had received no promises from Stans and that his success as a fundraiser was not relevant to his personal future. As Fernandez said, regarding his conversation with potential contributors and supporters: "Inevitably, the conversation would lead to my own future, but it was brought about by people who saw me in action during the campaign, who saw me on television, who heard me on radio, who read about me in newspapers, and speculation ran wild throughout the country among Spanish-speaking people that perhaps I would be the first Spanish-speaking member of a Presidential Cabinet." (13 *Hearings* 5363.)

<sup>75</sup> 13 *Hearings* 5366.

<sup>76</sup> 13 *Hearings* 5371, 5736.

help solve them. In return for his help, Fernandez wanted Priestes to contribute \$100,000 to the NHFC by cash or cashier's check. After an initial payment of \$25,000, Fernandez would introduce Priestes to Maurice Stans, the former Secretary of Commerce, who had just taken over as chairman of the FCRP. At that time, according to Priestes, he would be expected to contribute a second \$25,000, and Stans would, in Priestes' presence, call HUD Secretary George Romney. The balance of \$50,000 would be due when Priestes' FHA suspension was lifted. Priestes agreed to make the contribution by cashier's check. Fernandez advised Priestes to bring with him, when he was to see Stans, the press clippings that Priestes had shown Fernandez which outlined his FHA problems.<sup>77</sup>

Fernandez' account differs significantly, although he confirms that Priestes was prepared to make a large contribution, that he listened to Priestes' story and that he agreed to arrange for Priestes to tell his story to Stans. First, Fernandez testified that the figure of \$100,000 was never mentioned in the conversation; rather, he sought \$50,000, and Priestes indicated that he would be willing to contribute \$25,000.<sup>78</sup> Second, cash was never mentioned.<sup>79</sup> Third, there was no discussion of the problems Priestes was having until after the discussion of the contribution had been completed, and then Priestes was concerned principally with the bad publicity and not the HUD investigation of him.<sup>80</sup> Fourth, according to Fernandez, Priestes maintained that he was innocent and interested only in a fair hearing, and Fernandez said that Priestes could address his concern for fair treatment to Stans. In addition, Fernandez testified that at no time did he have any contacts with the FHA on behalf of Priestes or anyone else.<sup>81</sup>

Priestes was supposed to deliver \$25,000 to Fernandez on March 4, but had not yet raised the money by that date. When he met briefly with Fernandez at a charity ball on the evening of March 4, and told him this, they agreed that Priestes would bring the money with him when he came to Washington to meet with Stans.<sup>82</sup>

Priestes next met with Fernandez in the latter's hotel room at the Hay Adams Hotel on the evening of March 12, the day before the scheduled meeting with Stans, for the purpose of getting last minute

<sup>77</sup> 13 *Hearings* 5329-30, 5335, 5349. Priestes testified that after the meeting he checked with William Pelski, at the time the Director of the local FHA office. Pelski told Priestes that Fernandez was "legitimate," which to Priestes apparently meant just the opposite, and that "the job was going to be done." (13 *Hearings* 5352) At the time of his testimony, Priestes, who appeared voluntarily and without immunity, had pleaded guilty to making a false statement to the IRS and FHA in connection with his FHA problems. The balance of the charges against Priestes were dropped, although he was not protected from a prosecution for perjury before the Committee in case he lied. Pelski subsequently pleaded guilty to conspiring to defraud the United States under U.S.C. § 371, in connection with the same FHA investigation. Priestes informed the Select Committee that special favors received from Pelski were responsible for his companies climbing from 19th to second among Dade County, Fla., builders.

<sup>78</sup> 13 *Hearings* 5361, 5367-69.

<sup>79</sup> 13 *Hearings* 5361, 5369.

<sup>80</sup> Fernandez also denied being told by Priestes' former associate that Priestes had problems with the FHA and, while wealthy, might not be willing to make a contribution to President Nixon's reelection effort. Fernandez said he did not think it strange that a person with Priestes' problems was looking to make a large contribution. (13 *Hearings* 5370.)

<sup>81</sup> 13 *Hearings* 5367, 5369, 5383. When asked about a *Miami Herald* story dated Sept. 3, 1972, purporting to quote Fernandez as saying that he was going to dig into Priestes' FHA problems, Fernandez claimed that the story misquoted him. (13 *Hearings* 5401.)

In addition, in a staff interview, Antonio F. Rodriguez, a White House consultant from 1971 to 1973, stated that he recalled that at some point in 1972, Fernandez came to him and said that there was a Cuban builder in Florida who was in trouble. Fernandez asked Rodriguez if he might be able to help the man, because he was a potential contributor. Rodriguez said that he refused to become involved.

<sup>82</sup> 13 *Hearings* 5331, 5372. Priestes was accompanied to the ball by a friend, Rosemarie Jayne. In an affidavit submitted to the Select Committee, Ms. Jayne states that in late February or early March 1972, Priestes told her that he was planning to make a \$100,000 contribution and that the contribution would assist him in his problems with the FHA.

directions. Also present were Fernando Oaxaca, treasurer of the NHFC, and Jose Manuel Casanova, Florida chairman of the NHFC. As described by Priestes, there was some consternation in the group because of the very recent disclosures concerning the \$200,000 contribution by ITT to the President's reelection effort.<sup>83</sup> As recounted by Priestes, he objected to the fact that ITT, one of the country's largest corporations, was contributing \$200,000 while he, a relatively small builder, was being asked for \$100,000; it was agreed to reduce his anticipated contribution to a total of \$50,000: \$25,000 then, and \$25,000 when his suspension was lifted. Priestes presented the check he had brought with him, which he had obtained as a loan from a friend. It was made payable to the Republican National Committee and Fernandez became upset, because, in no event, could it be used by the NHFC or FCRP.<sup>84</sup>

In his public testimony, Fernandez stated that: "There were no discussions in that room with respect to Mr. Priestes' donation. There were no discussions with him with respect to the I.T. & T. matter, to which he (Priestes) testified yesterday. None whatsoever."<sup>85</sup>

The meeting with Maurice Stans took place the following morning, having been scheduled on March 8 by Fernandez and Hugh W. Sloan, Jr., who at the time was treasurer of the FCRP. Sloan described the circumstances of arranging the interview as follows:

About early March 1972 Mr. Fernandez indicated that he wanted a big kickoff for the Hispanic Finance Committee and said that he would start off with the potential contributors from Florida and mentioned that he hoped that he had a couple of contributors in the \$100,000 class, including John Priestes, whom he wanted Stans to meet.<sup>86</sup>

Sloan advised Stans of Fernandez' request, and Stans agreed to the meeting.

Priestes arrived at the meeting with the \$25,000 check and his portfolio of press clippings. Priestes and Fernandez were ushered into Stans' office, where Priestes turned over the \$25,000 check to Stans. Again, there was concern over the check, both because it was not made payable to FCRP or NHFC or some other arm of the campaign, but to the Republican National Committee, and because the check was for \$25,000 and made Priestes subject to a gift tax. Priestes testified that there was a discussion of substituting either a number of \$3,000 checks made payable to a reelection committee or cash for the \$25,000 check.<sup>87</sup>

In addition, Priestes presented Stans with his press clippings that described his FHA problems. While Stans looked at them, Priestes described his problems with the FHA.<sup>88</sup> According to Priestes' testimony, after he gave Stans the check and Stans made no effort to telephone HUD Secretary Romney on his behalf, Priestes said that he had been promised that Stans would call Romney. Priestes says he also asked: "Do I have any reassurance here that I am going to get any-

<sup>83</sup> 13 *Hearings* 5332-34, 5351.

<sup>84</sup> 13 *Hearings* 5361, 5374-75. Casanova, in an affidavit (13 *Hearings* 5737), said the meeting was brief and casual. In addition, however, he advised the committee that Fernandez had mentioned the possibility that Priestes would contribute a total of \$100,000. Oaxaca, another associate of Fernandez, advised the committee staff that he could not recall the substance of the hotel room conversation, but that Priestes was nervous and said that "he needed action in a hurry."

<sup>85</sup> 13 *Hearings* 5380, 5740.

<sup>86</sup> 13 *Hearings* 5336, 5342.

<sup>87</sup> 13 *Hearings* 5335.

thing for my money?" Stans told Priestes, "I will make a call and see what we can do. If we cannot do anything for you we will return the money."<sup>88</sup>

Fernandez denied that Priestes asked Stans to "pick up the telephone and contact George Romney". Rather, Fernandez recalled, Stans quickly reviewed Priestes' clippings and "probed as to the difficulties" Priestes was having in Florida, which Priestes described as "minor technical difficulties." Stans then indicated that he was not knowledgeable about Priestes' problems and indicated that he wanted to take a look into his personal background, adding that, "If we find that you are indeed in difficulties of a serious nature, we want nothing to do with you and we want you to know this." Fernandez quotes Stans as saying, "Ben, do not deposit this man's check until you hear from me." Fernandez testified that at no time was there discussion about Stans making a telephone call to anybody.<sup>89</sup>

Stans' unsworn statement to the committee makes no mention of any request by Priestes to telephone Secretary Romney and focuses on two concerns of Priestes: first, that he was an unfair victim of the Miami Herald; and, second, that he was afraid that HUD or FHA would take action against him on the basis of the publicity and that he wanted to be treated fairly. Stans' statement reads:

7. I flipped through the file of newspaper clippings in his presence and promised to read them later. I also told him that I could not evaluate the situation without knowing FHA's attitude toward him and his transactions; that I would have to check with HUD. I returned the check either to Fernandez or Priestes to hold until I had been able to do so.<sup>90</sup>

At the conclusion of the meeting, Stans expressed his evaluation of the meeting to Sloan, who described it to the committee in the following language:

After the meeting, Mr. Stans was upset and expressed his displeasure with the meeting to me, stating that the contribution was not in the \$100,000 class as he had been led to believe and further that he was concerned about Mr. Priestes personally. Mr. Stans told me that we would have to have better clearance of potential contributors who wanted to meet him.<sup>91</sup>

Following the meeting, Stans checked with both HUD and the White House concerning Priestes. Stans was advised by both sources to have nothing further to do with Priestes, since he was "unreliable and undesirable."<sup>92</sup> As related by Fernandez, Stans told him, "Much as I hate to return this money to this man, we had better return it because he is in trouble up to the ears and it will make us all look bad if we accept his donation."<sup>93</sup>

Meanwhile, Priestes, upon returning to Miami, learned that, as he had anticipated, his suspension had been announced on March 13, 1972. As testified to by Priestes, he made repeated calls to Fernandez

<sup>88</sup> 13 *Hearings* 5335-36, 5344.

<sup>89</sup> 13 *Hearings* 5361, 5378-79.

<sup>90</sup> 13 *Hearings* 5346-47, 5706-12.

<sup>91</sup> 13 *Hearings* 5380, 5740.

<sup>92</sup> 13 *Hearings* 5347.

<sup>93</sup> 13 *Hearings* 5381.

in California to ascertain what efforts were being made on his problem, and Fernandez stated that he was working on it.<sup>94</sup> Fernandez, in his testimony, said that he could not recall whether he had telephone conversations with Priestes after the March 13 meeting.<sup>95</sup>

A few weeks later, as recounted by Priestes, a representative of Fernandez—whom Fernandez said he was unable to name—returned the \$25,000 check to Priestes and indicated that perhaps something could be done for cash. When Priestes insisted that Stans witness the transfer of the cash, the representative balked, and the matter was dropped.<sup>96</sup>

Thereafter, Priestes called Fernandez and discussed the above contact with him. Fernandez said that he would make some telephone calls and get back to Priestes. In what Priestes described as a complete turnabout, Fernandez solicited \$5,000 and said: "We never promised you anything," when Priestes asked about what benefit he would get from contributing. Priestes protested and became indignant, saying "What was I doing in Washington with a \$25,000 check; I'm not even a Republican," but Fernandez reiterated what he had said. Fernandez testified that he could not recall soliciting Priestes for a \$5,000 contribution, that it was improbable—but possible—that it occurred.<sup>97</sup>

Priestes frankly asserted that he was seeking a quid pro quo for his contribution. The issue was summed up in the following exchange:

Mr. DASH. Mr. Priestes, when Mr. Fernandez first discussed what help he might be able to obtain for you, according to your testimony, for your contribution, did he put it on the basis that he could help you obtain a fair trial or fair hearing?

Mr. PRIESTES. No, sir, I expected to receive a fair trial without paying any money. I mean it was not—there was nothing to do with a fair trial, a fair hearing.

Mr. DASH. That was not mentioned at all?

Mr. PRIESTES. No, because I made it clear that was not what I wanted. I said that I didn't want to make a contribution. I was not interested.

Senator ERVIN. You were like one of my clients I had one time. He asked me what I could do and I said I will try to get you justice. He said, that is the last thing in the world I want.<sup>98</sup>

## VII. COMMITTEE QUESTIONNAIRES

In attempting to gather evidence of illegal, improper, or unethical activities in connection with the 1972 Presidential campaign, a written questionnaire was sent to a selection of about 700 individual contributors, corporate officers, and union executives in the fall of 1973.

### A. THE SAMPLE CANVASSED

The names of individual contributors were obtained from GAO lists of post-April 7 contributors. Inasmuch as extensive personal

<sup>94</sup> 13 *Hearings* 5337.

<sup>95</sup> 13 *Hearings* 5381.

<sup>96</sup> 13 *Hearings* 5337-38, 5386.

<sup>97</sup> 13 *Hearings* 5338, 5382.

<sup>98</sup> 13 *Hearings* 5355.

interviews were conducted with the largest individual contributors as well as the largest contributors of cash, an effort was made to sample a different class of contributors. Taken from the GAO lists were names of individuals who were listed as having given \$3,000 to either a Democratic or Republican Presidential candidate. Whereas all the Republican contributors selected gave to President Nixon's campaign, the sample of Democratic contributors included contributions to a number of candidates. Approximately 110 Republican and about 50 Democratic contributors were sent questionnaires. If the spouse of the contributor gave \$500 or more to a Presidential candidate, he or she also was asked to provide the committee with a completed questionnaire. The \$3,000 figure was selected in part because of the anticipation—a correct one, it turned out—that proposed legislation would place a maximum of \$3,000 that could be contributed by an individual to any particular Presidential candidate. A copy of the questionnaire sent to an individual is attached hereto.

The corporate questionnaire was sent to officers of a selection of corporations appearing on the "Fortune 500" list—the same list used for a direct mailing under the Weed-Scott corporate solicitation program.<sup>99</sup> The list included oil, insurance, textile, milk, business machine companies, trucking and automobile manufacturers, banking and accounting firms, utility companies, electronic companies, and defense contractors. Taken into account in the selection was the size of the company and geographical distribution of the companies, in an effort to gain as much of a cross section as possible. No effort was made to create a scientific sample. Once the names of the corporations were selected, questionnaires were sent to the chief executive officer, the chief fiscal officer, and the officer in charge of Government relations. Those persons known to have made a substantial contribution to a Presidential candidate or who were under investigation were deleted from the list. Finally, officers from 136 different corporations were selected and a copy of the attached corporate officer questionnaire was sent to each. A third questionnaire was sent to the top officials in 70 unions. Selected for his canvass were national and international unions—not locals—with a membership of at least 50,000. A copy of the questionnaire sent to union officials is attached.

## B. RESULTS OF QUESTIONNAIRE SURVEY

Of the more than 700 questionnaires sent to individuals, and corporate and union officials, the committee received a response from officers of every corporation and officials from every one of the unions canvassed as well as from 80 percent of the unaffiliated individuals to whom questionnaires were sent.

It appears that the corporate questionnaire may have been responsible for uncovering two corporate contributions and evidence of a third offense. Among the corporations selected were Carnation and Diamond International. Counsel for Carnation delayed their response to the committee's questionnaire until after holding discussions with the special prosecutor's office and advising them of a corporate contribution. In the case of Diamond International, officers of that corporation answered the questionnaire detailing the circumstances of

<sup>99</sup> See section on Corporate Oriented Solicitation.

the corporate contribution well before any public disclosure was made. As discussed elsewhere in this report, both Diamond International and Carnation have pleaded guilty to violations of section 610 of title 18. A questionnaire sent to the corporate officers of RCA disclosed a possible violation of section 610 in connection with the activities of the Hertz Corp., a subsidiary of RCA. The results of the committee's investigation into this situation is also discussed in the section on corporate contributions.

Of the 334 people responding in connection with the corporate survey, 164 individuals from 112 different corporations made a contribution of \$100 or more to a Presidential candidate in 1972. The survey demonstrates the disclosure law had an effect on contributions: fewer people contributed larger amounts of money prior to the April 7, 1972, deadline than those contributing post-April 7.

The answers to the questionnaire sent to corporate officers revealed that a total of \$1,896,322 was contributed to Presidential races by the chief executive officer, the chief fiscal officer, and the Washington representative of the queried corporations. The amount contributed prior to April 7 was nearly twice that contributed post-April 7—\$1,225,556 to \$670,766.<sup>1</sup> Of this total, over 75 percent was contributed to the Nixon reelection effort—\$1,443,830. This amount was almost evenly divided between pre-April 7 and post-April 7—\$786,889 prior to April 7 and \$656,941 after the April 7 date. It should be noted that, of the \$452,492 contributed to Democratic candidates, all but \$58,225 represents the contribution of a husband and wife to the campaign of former New York City Mayor John V. Lindsay. Thus, aside from this large dual contribution to the Lindsay campaign, the responding corporate executives as a group contributed more than 25 times as much to the President's reelection effort as they did to all the Democratic candidates combined. Contributions to the Nixon campaign were more than 100 times the contributions to the McGovern campaign. A breakdown of the contributions by the 164 corporate executive contributors is as follows:

### C. CONTRIBUTIONS BY CORPORATE EXECUTIVES

Name	Pre-Apr. 7		Post-Apr. 7		Number who gave (pre- and post-Apr. 7)	Total amount of contributions	Number of contributors
	Contributions	Number of contributors	Contributions	Number of contributors			
Nixon.....	\$786, 889	61	\$656, 941	119	29	\$1, 443, 830	151
Lindsay.....	394, 267	2	-----	0	0	394, 267	2
McCloskey.....	18, 500	2	-----	0	0	18, 500	2
Mills.....	5, 750	4	5, 600	3	0	11, 350	7
McGovern.....	3, 450	2	6, 975	4	1	10, 425	5
Muskie.....	8, 750	7	-----	0	0	8, 750	7
Jackson.....	5, 500	4	-----	0	0	5, 500	4
Humphrey.....	2, 200	1	1, 250	3	0	3, 450	4
Hartke.....	250	1	-----	0	0	250	1
Total.....	1, 225, 556	84	670, 766	129	30	1, 896, 322	183

As noted above, responses were received from 100 percent of the unions contacted by the committee. As in the case of corporations, the survey attempted to uncover any evidence of illegal contributions out

<sup>1</sup> As noted above, questionnaires were not sent to corporate executives who were scheduled for personal interview which included many of the largest contributors to the campaigns.



of union funds, as well as contributions from the unions' political action arms and from the union officers as individuals. No evidence of illegal union contribution activity was disclosed. Significantly, of the nearly 200 individuals responding to the questionnaire, only two, both officials of the Teamsters Union, contributed more than \$500 of their personal funds to a Presidential candidate. One gave \$4,000 and the other gave \$2,000.

The results reflecting activity by the unions' political action arms revealed a strong bias in favor of the Democratic candidates. Senator McGovern received a total of \$678,782 from 19 separate unions. Senator Humphrey received \$176,556 from 15 unions. Senator Hartke received \$14,250 from six unions, and Senator Muskie received \$5,736 from two unions. President Nixon received \$44,500 from six unions. It should be noted that these contributions represent donations from only national or the international union. It does not include contributions that may have been made through either the individual conferences, district councils or the locals of a particular union.

There were two cases in which the political action arms of the unions made significant loans to Presidential candidacies. The Communications Workers loaned \$100,000, and the United Auto Workers loaned \$150,000, both to the Presidential campaign of Senator McGovern. In both cases, only part of the loan was repaid, and the large balance was subsequently treated as a donation to the McGovern campaign; in the case of the Communications Workers, \$10,000 was repaid and \$90,000 was donated, and in the case of the Auto Workers, \$82,000 was repaid and \$68,000 was donated. The results of the union questionnaire are as follows:

## D. UNION CONTRIBUTIONS TO PRESIDENTIAL CANDIDATES

<u>UNION</u>	<u>MCGOVERN</u>	<u>HUMPHREY</u>	<u>MUSKIE</u>	<u>HARTKE</u>	<u>NIXON</u>
AFL - CIO					
Associated Actors & Artists of America					
Allied Industrial Workers					
Automobile, Aerospace & Agricultural Implement Workers (U.A.W.)	\$128,000		\$500.		
Bakery & Confectionary Workers					
Barber's, Hairdressers, Cosmetologists & proprietors					
Boilersmakers, Iron Shipbuilders, Blacksmiths, Forgers & Helpers					
California State Employees Assn.					
Carpenters & Joiners		\$500.			
Chemical Workers Union	\$1,350.				
Civil Service Employees Assn.					
Clothing Workers of Amer.	\$50,746	\$1,000		\$250.	
Comm. Workers of Amer.	\$123,369	\$7,566		\$500.	
Distributive Workers of America	\$8147				
International Union of Electrical Radio & Mach. Workers					
United Electrical, Radio & Machine Workers of America					
International Brotherhood of Electrical Workers	\$5,522				
Natl. Federation of Federal Employees					
International Association of Fire Fighters					
Glass Bottle Blowers					

<u>UNION</u>	<u>MCGOVERN</u>	<u>HUMPHREY</u>	<u>MUSKIE</u>	<u>HARTKE</u>	<u>NIXON</u>
Amer. Federation of Government Employees					
Hotel & Restaurant Employees & Bartenders					
Bridge Structural & Ornamental Iron Workers					
North America Laborer's					\$25,000
Ladies Garment Workers	\$66,792				
Natl. Assn of Letter Carriers					
Graphics Arts Industrial Union	\$16,090				
International Longshoremens Assn.					
Longshoremens & Warehousemens					
Machine Printers & Engravers					
Machinists & Aerospace Workers	\$24,600				
Maintenance of Way Employees					
National Maritime Union					
Meat Cutters & Butcher Workmen	\$54,200				
United Mine Workers					
Molders & Allied Workers					
American Fed. of Musicians		\$1,500			
American Nurse's Assn.					
Office & Professional Employees					
Oil, Chemical & Atomic Workers	\$32,975	\$2,225			
Operating Engineers					\$2,000
Plasters' & Cement Masons					
Plumbing & Pipe Fitting Industry					
Fraternal Order of Police					
American Postal Workers Union					\$3,500
Printing Pressman & Assistants					

<u>UNION</u>	<u>MCGOVERN</u>	<u>HUMPHREY</u>	<u>MUSKIE</u>	<u>HARTKE</u>	<u>NIXON</u>
United Papersworkers Intl. Union					\$3,000
Brotherhood of Railway Carmen					
Painters & Allied Trades		\$1,000			
Railway, Airlines & Steamship Clerks, Freight Handlers, Express & Station Employees	\$5,000	\$2,500		\$10,000	\$5,000
Retail, Wholesale & Depart- ment Store Union	\$1,500				
Service Employees Intn.		\$1,000			
Sheet Metal Workers					
State, County & Municipal Employees	\$18,056	\$600.	\$5,236	\$250	
American Fed. of Teachers	\$30,536	\$100.			
Teamsters					\$6,000
Alliance of Independent Telephone Unions					
United Textile Workers of Amer.					
Textile Workers Union of Amer.	\$100.			\$250.	
Theatrical Stage Employees & Moving Picture Machine Operators					
Amalgamated Transit Union					
Transport Workers Union	\$15,575	\$1,000			
United Transportation Union		\$4,800		\$3,000	
International Typographical Union					
International Union of Upholsterers					
International Woodworkers of America					

<u>Union</u>	<u>MCGOVERN</u>	<u>HUMPHREY</u>	<u>MUSKIE</u>	<u>HARTKE</u>	<u>NIXON</u>
Retail clerks International Assoc.	\$74,802	\$11,926			
Rubber, Cork, Linoleum & Plastic Workers	\$16,442	\$8,140			
United Steelworkers of America		\$41,699			
American Association of University Professors					
	<u>\$ 678,782</u>	<u>\$176,556</u>	<u>\$5,736</u>	<u>\$14,250</u>	<u>\$44,500</u>

SENATE SELECT COMMITTEE ON  
PRESIDENTIAL CAMPAIGN ACTIVITIES

QUESTIONNAIRE REGARDING  
POLITICAL CONTRIBUTIONS  
IN 1972 PRESIDENTIAL CAMPAIGN

1. Name, address and telephone number.  
  
(A) Name of spouse.
2. Names and addresses of employers between January 1, 1971 and December 31, 1972 and positions held.
3. Did you contribute to a political party, a candidate or a committee for a candidate in the Presidential Campaign of 1972 during the period of January 1, 1971 to December 31, 1972? \_\_\_\_\_  
For each contribution, please list (A) the name and address of the recipient, (B) the amount you contributed, (C) the date, and (D) the type of contribution, i.e., cash, check, stock, bond, services, goods, or others. If not cash or check, describe contribution in detail. If not cash, attach copy of relevant documents.
4. Did your spouse or any other member of your immediate family contribute to the Presidential Campaign as defined in question 3? \_\_\_\_\_  
If so, who? \_\_\_\_\_  
Each such person should complete a copy of this form.
5. Did your employer or any agent of your employer solicit contributions, directly or indirectly, from you or other members of the company on behalf of any particular candidate, political party or political committee during the period January 1, 1971 to December 31, 1972? \_\_\_\_\_  
(A) If so, list names, positions and addresses of such solicitors.

- 2 -

(B) State full details of solicitations.

(C) Did you contribute as a result of this employer solicitation  
\_\_\_\_\_ If so, state amounts and dates.

(D) Names of other employees solicited.

6. Did anyone else solicit you in person or by telephone for a contribution? \_\_\_\_\_ If so, please give name of solicitor and describe events of the solicitation.
7. Did anyone make a contribution covered by Question 3 in your name or anyone in your immediate family? \_\_\_\_\_ If so, explain circumstances in detail.
8. (A) Did your employer have any arrangement to reimburse you, directly or indirectly, such as through the use of bonuses or raises, for political contributions made by you or your immediate family during the period of January 1, 1971 to December 31, 1972? \_\_\_\_\_ If so, state full details.
- (B) Was the possibility of such reimbursement discussed by you or to your knowledge, others at the place of your employment? \_\_\_\_\_ If so, state full details.

- 3 -

9. Did your employer furnish to any candidate, committee for a candidate or firm or person on behalf of any candidate or political party, whether directly or indirectly, any monies, goods, service or any other thing of value for the Presidential Campaign of 1972 during the period January 1, 1971 to December 31, 1972? \_\_\_\_\_  
If so, state full details.
10. Did you, or your immediate family or your employer receive from any candidate or from anyone on behalf of any candidate, political party, any political committee or committee for a candidate any information or instruction regarding the gift tax laws or the April 7, 1972 Campaign Disclosure Law? \_\_\_\_\_ If so, state details and enclose copy of any documents provided, if available.
11. During the period January 1, 1971 through December 31, 1972, were you, any member of your immediate family or any business or enterprise of which you were an officer, director, partner or had an interest in excess of 5% involved in any negotiations, litigations or contacts with the United States Government or any agency or department thereof? \_\_\_\_\_ If so, state details.
12. Do you have any other information or comments regarding fund-raising or financing in connection with the 1972 Presidential Campaign?

Date \_\_\_\_\_ Signature \_\_\_\_\_

(Attach additional sheets if necessary.)



QUESTIONNAIRE FOR  
CORPORATE OFFICERS

1. Name, address and telephone number.
  
2. Did you or any member of your immediate family contribute the sum of \$500 or more to any political candidate, committee or party in connection with the 1972 Presidential election? \_\_\_\_\_  
If so, please complete the attached questionnaire for contributors to the 1972 Presidential Campaign.
  
3. (a) Please list the names and addresses of all companies with which you were affiliated as an officer or director between January 1, 1971 and December 31, 1972: (Note: Hereinafter, when the phrase "your companies" is used, it shall refer to companies listed in your answer to question 3-a.)

(b) For each of your companies during the period January 1, 1971 through December 31, 1972 please list the chief executive officer, the chief fiscal officer and the Vice President or other official responsible for relations or liaison with the United States Government and its agencies and departments.

- 2 -

4. Were you contacted in person, by telephone or in a personal letter for contributions in connection with the 1972 Presidential Election? \_\_\_\_\_  
If so, state details, including person soliciting and summary of conversation or communication. If you have any written communication or record, please attach a copy to your response.
5. Did you participate in or attend or, to your knowledge, did any other officers or directors of any of your companies participate in or attend discussions concerning the use of corporate funds or resources in connection with the 1972 Presidential Campaign? \_\_\_\_\_  
If so, state full details.
6. Did any of your companies make any contribution out of corporate funds, directly or indirectly, to any political candidate, committee for a candidate, political party or firm or person on behalf of any political candidate, committee or party in the 1972 Presidential Campaign? \_\_\_\_\_  
If so, state full details.
7. Did any of your companies provide any goods or services, including the supplying of personnel or facilities, to any candidate, committee, or political party in connection with the 1972 Presidential Campaign? \_\_\_\_\_  
If so, state full details.
8. Did any of your companies pay any bills or obligations on behalf of any candidate, political committee or political party in connection with the 1972 Presidential Campaign? \_\_\_\_\_  
If so, state full details.

- 3 -

9. Did any of your companies excuse or forgive or settle at less than face value any bills or indebtedness of any candidate, political committee or political party in connection with the 1972 Presidential Campaign? \_\_\_\_\_  
If so, state full details.
10. Did any representative of any candidate, political committee or political party in connection with the 1972 Presidential Campaign, directly or indirectly, suggest or indicate to you or, to your knowledge, any other officer or director of any of your companies that for the receipt of a campaign contribution that some benefit would accrue in any fashion to you or to any of your companies? \_\_\_\_\_  
If so, state full details.
11. Did any representative of any candidate, political committee or political party in connection with the 1972 Presidential Campaign, directly or indirectly, suggest or indicate to you or, to your knowledge, any other officer or director of any of your companies that any action would or might be taken against you or any of your companies if you failed to make a contribution to the 1972 Presidential Campaign? \_\_\_\_\_  
If so, state full details.
12. Do you have any other information or comments regarding fund-raising or financing in connection with the 1972 Presidential Campaign?

Date \_\_\_\_\_ Signature \_\_\_\_\_

(Attach additional sheets if necessary.)

1. Name, address and office telephone number.
2. Did you or your spouse contribute a total of \$500 or more to any political candidate, committee or party in connection with the 1972 Presidential Election? \_\_\_\_ If so, please complete the attached questionnaire for contributors to the 1972 Presidential Campaign.
3. A. Please list the names and addresses of all unions with which you were affiliated as an officer or agent between January 1, 1971, and December 31, 1972. (Note: Hereinafter, when the phrase "your union" is used, it shall refer to all unions listed in your answer to Question 3A.)  
  
B. For your union during the period January 1, 1971, through December 31, 1972, please list the chief executive officer, the chief fiscal officer and the official responsible for relations or liaison with the United States Government and its agencies and departments.  
  
4. A. Please list the political action arm(s) or political education committee(s) affiliated with your union, if one existed in 1972; and list the chief executive officer and chief fiscal officer of the same committee(s).

-2-

B. Please state the customary procedure followed by the political action arm(s) or political education committee(s) when they are soliciting donations for political campaigns.

C. Please include a copy of any audit or statement or memos of disbursement of these funds for Presidential Candidates in the 1972 election.

5. Were you contacted in person, by telephone or in a personal letter for contributions in connection with the 1972 Presidential Election? \_\_\_\_\_

If so, state details, including person soliciting and summary of conversation or communication. If you have any written communication or record, please attach a copy to your response.

6. Did any representative of any candidate, political committee or political party in connection with the 1972 Presidential Campaign contact your union to solicit contributions from union funds, to solicit the union's assistance in obtaining contributions from members, or to suggest that you make a personal contribution which would be reimbursed by the union? \_\_\_\_\_ If so, state full details.

7. Did your union make any contribution out of union funds, directly or indirectly, to any political candidate, committee for a candidate, political party or firm or person on behalf of any political candidate, committee or party in the 1972 Presidential Campaign? \_\_\_\_\_ If so, state full details.

-3-

8. Did your union effect, or attempt to effect, a plan for making deductions from members' dues which would or did inure, directly or indirectly, to the benefit of any candidate, political committee or political party in connection with the 1972 Presidential Campaign? \_\_\_\_\_ If so, state full details.
9. Were the members of your union directly or indirectly asked, encouraged or instructed to make contributions which would or did, directly or indirectly, inure to the benefit of any candidate, political committee or political party in connection with the 1972 Presidential Campaign? \_\_\_\_\_ If so, state full details.
10. Did your union provide any goods or services, including the supplying of personnel or facilities, to any candidate, committee, or political party in connection with the 1972 Presidential Campaign? \_\_\_\_\_ If so, state full details.
11. Did your union pay any bills, salaries or obligations on behalf of any candidate, political committee or political party in connection with the 1972 Presidential Campaign? \_\_\_\_\_ If so, state full details.

-4-

12. Did any representative of any candidate, political committee, or political party in connection with the 1972 Presidential Campaign, directly or indirectly, suggest or indicate to you or, to your knowledge, any other officer or employee of your union that any action would or might be brought against you, your union or the employers of any members of your union if your union failed to make a contribution to the 1972 Presidential Campaign? \_\_\_\_\_ If so, state full details.
13. Did any representative of any candidate, political committee or political party in connection with the 1972 Presidential Campaign, directly or indirectly, suggest or indicate to you or, to your knowledge, any other officer or director of your union that for the receipt of a campaign contribution that some benefit would accrue in any fashion to you or to your union? \_\_\_\_\_ If so, state full details.
14. Did you solicit funds from your membership on behalf of a 1972 Presidential Candidate? \_\_\_\_\_ If so, state full details.
15. Do you have any other information or comments regarding fund-raising in connection with the 1972 Presidential Campaign?

Note: Attach additional sheets if necessary in responding fully to all questions.

## VIII. CORPORATE ORIENTED SOLICITATION

The Finance Committee To Re-Elect the President engaged in systematic solicitation of campaign contributions from corporate executives and middle management salaried employees. It engaged in this solicitation through principally two programs. First, what was varyingly called the "corporate conduit program," or the "corporate group solicitation program" (hereinafter referred to as CGSP) whose purpose was according to the persons in charge of it, FCRP, Vice Chairmen Newell P. Weed, Jr., and Harold B. Scott, "to generate substantial funds by encouraging individual corporations to stimulate their employees to contribute \* \* \*. The rationale behind the idea was that individual companies could more effectively reach principal top-management and middle-management personnel than was possible by traditional fundraising programs."<sup>1a</sup>

CGSP was first conceived in March 1972, but it was not until June that the structure of the program was set and it was put to operation. The program ultimately reached executives from 1893 corporations and included two major mailings to corporate executives.

The second major element was the industry-by-industry campaign headed by Buckley M. Byers which concentrated on 60 major industries and involved some duplication of the Weed-Scott effort.

A third solicitation method approved, but not stressed by FCRP, involved organized employee "good government" committees.

### A. THE CORPORATE CONDUIT PROGRAM

#### 1. THE PLAN

There were two important features to this program. First, the CGSP was aimed at companies and certain groups of people within companies who would most likely contribute to the Republican candidate for President, including top-management and middle-management levels.

With this expectation in mind, it was decided to send a "bipartisan" appeal to this select group for funds and expect a large return in favor of the FCRP. Moreover, in some cases the program was implemented in a firm on an outwardly bipartisan basis, with the "implicit understanding that the Chief Executive would work toward a result heavily weighted in favor of the President."<sup>2</sup>

Thus, the December Weed-Scott report, apparently directed to Stans, stated:

Our target was to develop a large number of smaller gifts rather than major gifts from a few donors. The law of numbers would make this program successful as it does the "in-plant" solicitations now conducted by most corporations for United Fund and other charitable organizations. A typical corporate goal would be to solicit a group of 500 employees and receive an 80 percent response with an average gift of \$100 which would provide a combined donation of \$40,000. A continuing base of only 500 firms nationwide with this average

<sup>1a</sup> Report dated December 1972 by Weed and Scott, pp. 2, 17—hereinafter Weed-Scott Report.

<sup>2</sup> Weed-Scott Report, p. 18.



result would produce a national total of \$20 million and this is a most practical goal if organized properly over the next few years.<sup>3</sup>

The second important aspect of the CSP was that it was so constructed as to circumvent the necessity of an individual company having to file disclosure forms as a political committee under the Federal Election Campaign Act of 1971 (FECA) by having the checks made out directly to the candidate, but mailed to FCRP together. Following this procedure, there would be no public record of contributions classified by the company of the donor while there would be such a record at FCRP.

An informal opinion by the Department of Justice issued on September 15, 1972, although late in the campaign, gave credence to the FCRP viewpoint that CSP was legal. The opinion made two significant points regarding corporate involvement in political campaigns:

a. Bona fide bipartisan corporate solicitation programs, even where the corporation is a defense contractor, are legal under sections 610 and 611 of title 18, United States Code.

b. Under a "conduit system" whereby the employee is making his contribution directly to a candidate or committee of the candidate (even though utilizing a middleman) instead of to a corporate fund or officer, a corporation's participation is not such as to require it to register as a political committee.<sup>4</sup>

## 2. THE EXECUTION OF THE PLAN

Originally begun with the "Fortune 500," this list was expanded to 1,000 and, ultimately 1,893 corporations, which included the "Fortune 1,000" plus "top insurance companies, financial institutions, and service companies." These companies constituted the "blue ribbon" list. Developed during the summer of 1972,<sup>5</sup> the program generated a total of \$2,791,134 according to Weed and Scott.

In an interview by committee staff, Harold Scott provided to the committee a description of the operational mechanics of the Weed-Scott program. The country was divided into two—then further divided into regions—each region having a director. The regional directors were usually prestigious businessmen from the area. An organizational meeting was called in the region with the administration figure as speaker. At the meeting attended by corporate business leaders from the region, Scott or Weed would explain the corporate group solicitation program, and, after the explanation, they would then distribute a conduit system "kit," describing the program. Personal contact was relied upon heavily.

<sup>3</sup> Weed-Scott Report, p. 2. This amount is approximately equal to the expenditure limitation in S. 3044 of the campaign financing reform bill that passed the Senate in 1974.

<sup>4</sup> The opinion was solicited by Richard D. Godown, general counsel of the National Association of Manufacturers (NAM), in a letter dated September 13, 1972, to the Department of Justice.

<sup>5</sup> Even though the Weed-Scott program was not formally instituted until June 1972, FCRP was keeping a record of individuals and corporations who received recognition for their contributions. A memorandum from Weed to Hugh Sloan, Jr., dated March 31, 1972, reads: "We will be receiving other gifts from other officers of Pullman, so we should keep a record of them both individually and under corporate grouping."

"This [\$1,000 check] was delivered by Bill Speers, Washington representative of Standard Oil, so while it should be acknowledged and listed as an individual gift, it should also be listed under the Standard Oil group."

It appears that problems developed because the internal conflict over the "partisan" vs. "bipartisan" approach and the idea of "maximizing recognition," since central to the approach was the emphasis on associating the contribution with the corporation of the contributors, and FCRP stressed the importance of contributors receiving recognition for their contributions. In a letter mailed to over 150,000 corporate officers, Maurice Stans stated: "Our committee's records of the combined contributions from you and your associates will maximize recognition of your group's support of the President."

One of the selling points of the conduit system was that corporate executives could legally contribute in what in the aggregate constituted a large contribution.<sup>6</sup> And the aggregate contribution from the company would not go unnoticed.

As noted in an untitled memorandum prepared in December 1972 by Weed and Scott, which appears to have been intended for Stans, the question of the "concept"—partisan versus bipartisan—was discussed:

Related to the legal questions (discussed below), this issue plagued the corporate conduit program from the beginning. The program was conceived by a partisan group and its design naturally included heavy overtones of partisanship. It soon became apparent, however, that chief executives who might themselves be solidly in the Republican ranks were often hesitant to make a partisan approach to employees. Many employers flatly refused to do anything which had any overtones of pressuring the employees in an area outside the firm's principal activities.

In addition, the law (Federal Election Campaign Act of 1971) left some doubt as to the conditions under which a firm could legally engage in partisan and/or bipartisan political activities and also questions about the extent of activities allowed. As a result the program was prompted on both partisan and bipartisan basis. In instances where a partisan approach was untenable, the bipartisan was trotted out. In some cases the program was implemented in a firm on an outwardly bipartisan basis, with the implicit understanding that the chief executive would work toward a result heavily weighted in favor of the President. In other cases the roster of employees approached was restricted to the management group and other white collar workers, in hopes (well founded, as it turned out), that this group would be largely predisposed in favor of the President.

Apparently typical of the objections raised by some businessmen was a letter dated July 14, 1972, to Stans from the president of a New Jersey company. After noting that he "strongly supported the policies of President Nixon," the writer continued:

I think this is a most unfortunate approach to the solicitation of contributions.

I would strongly object to any pressures, no matter how subtle, imposed upon me by our corporate officers, as I would

<sup>6</sup> A number of letters sent out to executives suggested contributions of 1%–2% of their salaries.

expect the people in my division to object to any pressures exerted by me.

In addition, your reference to the use of committee records on organization contributions to maximize recognition of support appears to substantiate the Democratic charge of recognition of special interest groups. This certainly highlights the opportunities of the oil interests, as an example, to make a substantial contribution in order to buy further administration support for unfair oil depletion allowances, which are eventually paid for by the taxpayer.

Frankly, my feeling is that your approach is going to have a negative, rather than a positive, effect on the overall support of President Nixon and his forthcoming campaign.

FCRP aide Robert L. Krattli responded:

Former Secretary Stans has asked that I reply to your letter which objects to the solicitation of contributions from employees of companies.

The program being utilized by this committee is similar to programs used within many of the major corporations in this country, that is an employee-directed system of political fundraising. We believe that the chief executive of a company should have the option to conduct a fundraising campaign as he sees fit, but we do provide him with the option of making each gift totally anonymous and thereby affording complete protection to the employees.

Despite this position, which stressed the availability of anonymous contributions, the post-campaign Weed-Scott report advised the abolition of this procedure. In a section under "Solicitation Materials—Problem Areas and Recommendations," the report states:

A key problem was the reference to our first set of materials—on the "How To Do It" card—that suggested the "double envelope" system used to return the contributions if privacy was desired. It became apparent that employees returning a contribution to their CEO or other senior officer would respond far better in terms of dollar amount of the gift if they did not use the anonymity of the sealed, double-envelope system. Comparative results by those corporations using the double envelope and those that did not make it extremely clear that the latter method should be used. Our "How To Do It" card and our suggested procedures were changed in the latter part of the campaign to eliminate any reference to the double-envelope system. It is not a requirement of the law that this anonymity or privacy be maintained, and as all gifts are a matter of public record anyhow with the disclosure provisions of the new law it is strongly recommended that in the future the "conduit" system include this change in emphasis.

### 3. CGSP—DIRECT MAIL PROGRAM

The success of the CGSP "blue ribbon" solicitation program may be contrasted with a direct mail solicitation to businessmen. The direct

mail solicitation letter was drafted by Maurice Stans and mailed on about July 4, 1972, to approximately 150,000 businessmen listed in Dun & Bradstreet. The letter was followed up by calls and another letter. According to FCRP, confirmed with the direct mail concern that sent out the solicitations, only \$14,000 was profited from the direct mail program which cost \$53,000. Approximately 200 companies constituted conduit programs as a result of the direct mail effort and about \$25,000 was received from these 20 companies. So, at most, this first mailing raised \$39,000.

A second direct mail letter was sent in late August and early September to 35,000 firms listed in Dun & Bradstreet. This letter was a higher quality piece than the first, and as a result, a larger percentage of firms agreed to institute a conduit system than those in the first mailing. The cost of this mailing was \$21,000 with only about 600 actual respondents.

The direct mail results were not as expected. The response from the "money-in-the-envelope" response was negligible—about 1 percent, according to FCRP.

In fact, the conclusions of FCRP about the direct mail effort reveal its limitations as a fundraising technique. The Weed-Scott report concluded that "the direct mail portion of the corporate conduit program's effort was not effective by any standards." (p. 24.) In fact, FCRP concluded that, "No direct mail should be sent to major potential contributors including all officers of the 2,000 largest corporations"; while it was recognized that this would entail considerable effort, it was concluded that "the cost is not excessive in terms of potential benefit." (Weed-Scott report, p. 16.) Thus, it was concluded that it was worth considerable time, effort, and money *not* to send mailings to these corporate officers.

## B. INDUSTRY-BY-INDUSTRY PROGRAM

The industry-by-industry solicitation program provided double coverage of most of the corporations covered by the Weed-Scott program and the individual FCRP State chairmen. However, this duplication was acknowledged as a means to insure a good return from solicitation under the total corporate solicitation program.<sup>7</sup>

The logic of the program was summarized by Buckley M. Byers, director of the industry-by-industry effort, in an October 23, 1972, memorandum to Stans:

In some 60 industries, we have had a leader in each industry who personally knows his counterparts who are the chief executive officers in that industry. He also knows what the specific problems of the industry are, what President Nixon has done to help his industry and also what the alternatives would be for the industry.<sup>8</sup>

In his memorandum to Stans on November 27, 1972, reviewing the performance of the industry efforts, Byers would usually begin with a statement on the effectiveness of the coordination of the industry. Comments such as that a coordinator "did not perform to expecta-

<sup>7</sup> Weed-Scott Report, p. 10.

<sup>8</sup> Byers, in a staff interview, stated that only half of the 60 industries on which he focused as intended participants actually participated.

tions," or "was a disappointment after considerable optimistic talk," were balanced by evaluations that a coordinator "did a first-class job." Some who seemingly put forth their best efforts apparently were simply the wrong person for the job. Byers felt that the coordinator should be from an individual company and not from a related trade association. Although on occasion industry coordinators instructed their respective industry counterparts to send their contributions directly to FCRP, Byers wanted the individual coordinator to receive the donations first so that an accounting of the total industry's contribution would be readily available.

This report described the homebuilders industry, which raised \$334,059, as "productive and well organized." Twenty days after the election, Byers stated that: "This group, in my opinion, could still be pressured into giving some more if absolutely necessary." No further contact was made, according to the industry chairman who told the committee staff that there never was any pressure exerted on him or the industry to contribute.

The organization of the agribusiness industries suggests the comprehensiveness of the industry-by-industry program. Within this general industrial classification were dozens of different types of businesses and concerns, each with a subchairman. For instance, the agribusiness committee not only included soybean and beef production but, also farm implement dealers, florists, cottonseed crushers, and—according to the FCRP industry-by-industry files—35 other subclassifications. The November 27, 1972, Byers report attributes contributions of \$209,457 to the agribusiness industry.

Although the industry-by-industry program started relatively late in the campaign, the program appears to have generated at least \$7 million in contributions, according to Byers' "preliminary final report" which, he conceded, required updating.<sup>9</sup>

The largest industry contributors, according to Byers' November 27, 1972, report were: Pharmaceutical, \$885,000; petroleum products, \$809,600; investment banking, \$690,812; trucking, \$674,504; textile, \$600,000; carpet, \$375,000; automobile manufacturers, \$353,900; homebuilders, \$334,059; and insurance, \$319,000.

It appears from memorandums obtained from FCRP files that some corporate officers—especially those whose companies' business heavily rely on Government contracts—balked at the idea of the industry being the contribution spotlight and not the company. Thus, a memorandum from Buckley Byers dated July 17, 1972, re the aerospace industry, states:

Vern told me in no uncertain terms that such an effort would not be successful in this industry. The reason being that they are so heavily dependent on Government contracts that individuals in any one of the top seven companies would not want a representatives of any of the other companies to get credit for raising this kind of money.

<sup>9</sup> For example, no figure appears in the Byers' report for the airlines industry; and upon a check by the committee of four national food chain stores, it was learned that officers of just four companies contributed \$6,400 to FCRP—while Byers' report lists a total of \$1,000. Also, the staff of Rep. Les Aspin researched the Clerk of the House and GAO reports and found that oil related corporation officers contributed approximately \$5.7 million to Richard Nixon's campaign (see *Congressional Record*, January 22, 23, 24, 1974). The Byers' report attributes an aggregate amount of \$820,600 (Petroleum Products & Pipeline) from the oil industry.

A July 26, 1972, Byers memorandum raised the same problem in the case of the airline industry, pointing out that one industry figure noted that "all of the airlines are exceptionally jealous of each other."

Apparently, the industry-by-industry program sought to acquaint itself with the problems of the solicited industries. While the committee has developed no specific evidence that the FCRP industry-by-industry program influenced Government action, it apparently reviewed industry problems and forwarded the industry's concern to the interested officials. Byers' November 27, 1972, memorandum summarizes his views:

We have a good nucleus of people to work with now and we must keep most of them actively involved. In this connection, I would recommend that many of our industry chairmen be asked to serve as appointed members of the Republican National Finance Committee. We are also going to have to do what we can to help our industry chairmen with problems of their industry and see to it that they get proper attention from the administration. Only in this way will they become convinced that our relationship is not "a one-way street."

Another Byers memorandum regarding nonferrous metals noted that "there would be absolutely no question" about FCRP's choice "accepting and doing an outstanding job . . . if we could give some reasonable assurance that we would render whatever assistance possible to the industry." There is no evidence that any efforts were made on behalf of the industry by FCRP, though the industry was credited with \$55,600 by Byers.

Byers' view of the potential of the program was summarized in his October 23, 1972, memorandum to Stans:

While there was an industry-by-industry effort in 1968, it was admittedly, "too little and too late." The effort this year could also have been far more successful had it been in effect much earlier. Now that we have a reasonably good organizational nucleus, I would urge that it be kept alive, strengthened and enlarged. Such an effort could be invaluable in the senatorial and congressional races in 1974, as well as in any special election that might come up in the meantime. If it is continued, it could, in my opinion, prove to be "the answer" in 1976.

#### C. SEPARATE SEGREGATED FUNDS: CORPORATE GOOD GOVERNMENT COMMITTEES

The Federal Election Campaign Act of 1971 permitted a corporation to provide for "the establishment, administration, and solicitation of contributions to a separate segregated fund—commonly named 'good government committees'—to be utilized for political purposes." The corporation need insure only that the money was not obtained through force or threat of employment reprisals, or "in any commercial transaction." The provision in the 1971 act for a separate fund basically codifies the decision of the Supreme Court in *Pipefitters Local 562 v. United States*, 407 U.S. 385 (1972). There, the Court sanctioned the common practice of separate funds for political purposes set up by

labor unions—and by analogy, corporations—governed by the older Corrupt Practices Act, so long as the persons contributing to the fund were fully aware that their contributions were voluntary.

It is in this area of voluntary funding that the 1971 Campaign Act may be unclear and possibly subject to abuse. The act specifies that the use or threat of physical force, job discrimination or financial reprisals will render a contribution involuntary, and the Supreme Court has said that under the previous legislation contributors had to be aware that their donations were strictly voluntary.

One area of potential abuse is the situation where the employer—perhaps through another high echelon corporate officer—asks his employees to participate in a good government committee by making donations. In this situation it is more difficult to differentiate between coercion and implied pressure on the one hand and a legitimate appeal asking for involvement in a citizenship program on the other.

Unions effectively utilized separate segregated political funds by raising substantial amounts of money from their membership, most of which went to Democratic candidates for President. However, corporate related segregated political committees, though not as commonly known to the public as union, also provide a substantial percentage of contributions to campaigns. From reports filed with the Clerk of the House and the GAO, it appears that hundreds of thousands of dollars went to the Committee To Re-Elect the President prior to the April 7 deadline in 1972. Post-April 7, according to GAO records, five corporate-related committees reported that \$138,556 went to the Finance Committee To Re-Elect the President; from the same committees, \$20,650 went to Senator McGovern's campaign and \$650 went to one other Democratic candidate for President.

Many corporations already had in existence corporate good government committees prior to the advent of the 1972 Presidential campaign and readily utilized them for the campaign. Some of these corporations ended their good government committees just prior to April 7, 1972, because of the legal uncertainties arising from the questions of interpreting sections 610 and 611 of title 18, United States Code. And, still other companies instituted new segregated political committees following the guidelines of the new law.

Concern existed not only over the legality of "good government" committees, but over appearances. Although making use of these committees was part of the 1972 Presidential campaign effort by FCRP, they were aware of possible criticism. Thus, a February 28, 1972 memorandum from White House consultant Jack A. Gleason to David Wilson, assistant to John Dean, noted under the heading "Public Relations" that: "Historically, virtually all corporate political structures have been subjected to illogical criticism by the press for their activities. \* \* \* Further, their activities have not been especially useful or effective."

Gleason's plan to make the committees more "useful" and "effective" appears in the memo's next paragraph:

Whatever section 610 permits, any major corporation making a major effort by itself will be subjected to additional press criticism. The only way I can see to offset this possibility is to establish a committee of prominent business-

men to see that their corporations and others that they approach jointly announce that "these corporations (say, a hypothetical minimum of 30 major corporations) have chosen to exercise their 'responsibility' to good government by establishing a 610 committee as provided for under the new law." Such a leadership committee can be stacked with pro-Nixon men, but should also include a creep [sic] or two like J. Irwin Miller to avoid any blatant pro-Nixon appearance. Additionally, such a committee should be made up principally of five or six real clout businessmen who can pass as reasonably non-partisan and must be prepared to devote a considerable amount of time to the project.

The committee investigated a number of corporate good Government committees and found two companies which had programs that warrant presentation: Gould, Inc. and Tennessee Eastman Co.

#### 1. GOULD, INC.

Gould, Inc., a large Government contractor which has a multiyear contract to manufacture torpedo parts started Better Government Association (BGA) in 1969 as an outgrowth of the Gould, Inc.'s, philosophy of taking an active part in politics.

The fund was divided into two types of employees: the salaried exempt and the salaried nonexempt. The salaried exempt employees were the 100 senior officers of the corporation. In 1972 and 1973, approximately 90 officers contributed to the fund. From the 5,000 salaried nonexempt employees solicited in the same time period, approximately 350 contributed to the fund. Employees were theoretically able to specify to the recipients of their individual contributions and make suggestions as to who should receive contributions from the discretionary fund, which was the money not allocated by individual contributors. BGA was administered by three officials of Gould, Inc.: William Ylvisaker, president and chairman of the board of Gould, Elmore Wyatt, and Roger Moreley, two other company officials.

In February 1972, Ylvisaker was approached at a breakfast in Chicago by Stans, a personal friend of his. Stans stated, according to Ylvisaker, that "we've got you down for \$50,000." After the breakfast Ylvisaker met with Moreley and Wyatt to discuss a contribution from BGA. All agreed that \$50,000 was an unrealistic figure and decided that \$20,000 was more within the ballpark. Since BGA had about \$9,000 in the BGA account, it was decided that a personal loan to BGA would have to be made. Ylvisaker decided to make the loan personally on two conditions: (1) That BGA pay the interest on the loan; and (2) that he would exert no immediate pressure to be repaid. Thus, on April 3, 1972, Ylvisaker went to the National Security Bank of Chicago and secured a note for \$20,000 and made the loan to BGA.

Only the three above-mentioned officers of Gould, Inc., had knowledge of the loan to BGA and also knowledge of the subsequent contribution to CRP. No one else was told about the contribution until shortly before the election in 1972. Not one of the salaried nonexempt employees of Gould, Inc., knew about the contribution until the fact was reported in the newspapers in the fall of 1972.



Over a year after the actual contribution was made to CRP, the loan was repaid. The funds to repay Ylvisaker came to BGA as a result of a massive solicitation effort within Gould, Inc., in the spring and summer of 1973 in which Gould employees were solicited for non-allocated contributions.

## 2. TENNESSEE EASTMAN CO.

The Tennessee Eastman Co., located in Kingsport, Tenn., maintained a plan: Volunteers for Better Government (VBG), which involved centralized control under three trustees, two corporate officers and a local lawyer.

The payroll deduction authorization was for a deduction of 1 percent of the employee's gross salary; there was no option on the amount of deduction. The average contribution was about \$300 per employee. The VBG organizers were empowered with the right to terminate the payroll deduction at any time they felt that they had enough funds on hand and then reinstate the deductions whenever they wanted more funds without taking the matter up with the individual contributor. There was no option on the part of the participant to designate the candidate of his choice. No reports were made to contributors, and employees were not advised of the identity of the recipients of VBG's contributions. No evidence of coercion was found, although one employee stated that he had participated because he wanted to be a team player.

VBG stopped the payroll deductions as of November 1, 1972, and has not reinstated them as of this date. The reason given was that the committee had on hand funds amounting to approximately \$28,000, and there was no campaign or candidate to support. The report filed with the Secretary of the Senate reveals that the receipts of VBG for the year 1972 was \$30,442.37. The only donation to a Presidential campaign in 1972 was \$30,000 which was given to FCRP. Cash on hand as of December 1972 amounted to \$28,161.89.

## IX. COMPROMISE OF CAMPAIGN DEBTS

Investigation by the Select Committee has developed evidence that at the same time as the Presidential campaign committees of Democratic candidate Senator George McGovern were settling bills with creditors, including corporations, at 50 percent of their face value, these Presidential committees were making substantial transfers of funds to McGovern senatorial committees in anticipation of a 1974 contest for his reelection to his Senate seat.

The transfer of funds was first revealed by the McGovern Finance Committee December 31, 1972 report furnished to GAO (Government Accounting Office). As disclosed in this report, \$25,000 was transferred from the "Citizens for McGovern" Presidential Campaign Committee to the "Citizens for McGovern" U.S. Senatorial Campaign Committee on November 20, 1972. By transfer of these funds and others, Senator McGovern has been able to supplement the resources of his Senatorial Citizens for McGovern Committee in the total amount of \$340,416.96. Following is a list of McGovern Presidential committees that transferred funds to "Citizens for McGovern—U.S. Senate."

Citizens For McGovern (Presidential), 1019 19th Street, NW., Washington, D.C.:

Date:	Amount
Nov. 20, 1972-----	\$25, 000
Jan. 9, 1973-----	25, 000
Feb. 14, 1973-----	25, 000
Mar. 12, 1973-----	100, 000
May 17, 1973-----	50, 000
June 23, 1973-----	20, 000
Aug. 3, 1973-----	10, 000
Aug. 10, 1973-----	30, 000
Dec. 30, 1973-----	7, 054
<b>Total</b> -----	<b>292, 054</b>
<hr/>	
McGovern For President, 721 Milwaukee, Box 3201, Milwaukee, Wisc.:	
Date: May 24, 1973-----	1, 000
<b>Total</b> -----	<b>1, 000</b>
<hr/>	
Michigan McGovern for President Committee, 18647 Livernois Avenue, Detroit, Mich.:	
Date: Aug. 20, 1973-----	21, 500
<b>Total</b> -----	<b>21, 500</b>
<hr/>	
McGovern Committee, 6400G Goldsboro Road, No. 301, Bethesda, Md.:	
Date: Sept. 29, 1973-----	25, 400
<b>Total</b> -----	<b>25, 400</b>
<hr/>	
Alameda County Educators For McGovern, 2140 Shattuck Avenue, c/o Ernest McCoy, Esq., Berkeley, Calif.:	
Date: Dec. 19, 1973-----	462. 96
<b>Total</b> -----	<b>462. 96</b>
<hr/>	
<b>Grand total</b> -----	<b>340, 416. 96</b>
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During this period, over the signature of Marian Pearlman, McGovern national treasurer, letters were sent to creditors to get them to agree to settle debts owed to them for less than the full amount. Thus, a letter dated December 15, 1972 by Ms. Pearlman to Mrs. Martha Keys, 2339 Chris Drive, Manhattan, Kans., reads:

Henry is out of town and I have your letter of December 3. First of all, the newspaper reports of the postelection financial condition of the McGovern for President Committee were inaccurate. We do not at this time have enough money to pay all our debts. I am hopeful that we will be able to obtain settlements from our creditors at less than the full amount owed.

All State committees are expected to settle their financial affairs themselves. We are not assuming any State obligations.

\* \* \* \* \*

I would imagine that once you get all your accounts settled, the Topeka printer would be willing to settle for some payment on the account as payment in full. We are writing to our trade creditors asking them to settle for 50 percent of the amount owed.

The committee investigation reveals that McGovern for President, Inc. (a Presidential committee) has succeeded, by way of payment at less than the full amount or no payment at all, in reducing obligations to business creditors—virtually all of them corporations<sup>10</sup>—in the amount of \$35,322.32. Initially, goods and services furnished by IBM, for which payment was made at less than the full amount, came to the attention of committee investigators, and IBM advised the committee by letter dated February 14, 1974, that they had dealt with approximately 45 political committees during the Presidential campaign of 1972 and had billed for goods and services provided in the amount of \$952,000. Responding through their corporate counsel, IBM furnished information concerning the current status of their billing, which revealed that, as of February 14, 1974, they had current billings of \$3,142.64, a delinquent billing of \$6,979.13, and bills written off as uncollectible in the amount of \$1,575.27. The \$1,575.27 figure was for goods and services provided to McGovern for President committees.

The committee investigation also reveals that \$9,606.02 was written off by Xerox as an "uncollectible" from the McGovern Presidential campaign.

A document furnished to committee investigators by Marian Pearlman entitled "Schedule of forgiven debts in excess of \$100" listed 46 companies, not including IBM and Xerox, that were offered the opportunity to accept settlement for 50 percent of the amount owed, which was \$36,061.37. A check with these companies disclosed that 11 had eventually been paid in full.

Following is a list of 37 companies which held indebtedness in excess of \$100 for the McGovern Presidential campaign of 1972, for a total of \$35,322.32, which, according to committee investigation, was not paid:

<sup>10</sup> Section 610 of title 18, United States Code, prohibits contributions by corporations (see section on Corporate Contributions), and certain corporations settled obligations at less than face value. However, there is no evidence that: (1) Officials in Senator McGovern's campaign directed their settlement efforts at corporations as opposed to other creditors; (2) such a settlement was contemplated by the campaign officials during the time the goods and services were contracted for; and (3) the corporations had any intention to make a contribution or, in fact, had knowledge of actual or anticipated assets of the campaign or that the creditors and campaign dealt with each other than at arm's length. It does not appear that section 610 has ever been applied to the situation described herein.

## Schedule of forgiven debts in excess of \$100

Creditor:	Debt forgiven
IBM Armonk, N.Y.-----	\$1, 575. 27
Xerox Corp., Rochester, N.Y.-----	9, 606. 02
Sumart Press & Envelope Co., Post Office Box 85, Beltsville, Md.---	135. 60
Transion Air Freight, O'Hare International Airport, 5201 North Rose St., Chicago, Ill.-----	423. 61
Wire Service Supply Co., 220 East 42d St., New York, N.Y.-----	117. 04
Electronic Center, 5258 Reisterstown Rd., Baltimore, Md.-----	125. 00
Winnepesaukee Aviation, Inc., Post Office Box 165, Lakeport, N.Y.---	399. 50
Yankee Trails, Third Avenue Extension, Rensselaer, N.Y.-----	284. 00
Airport Motor Inn, Post Office Box 12422, Houston, Tex.-----	310. 60
Audio Visual Innovations, Inc., 152 West 42d St., New York, N.Y.---	326. 83
Avis Grand Rent-A-Car, 1207 West Third St., Los Angeles, Calif.---	123. 53
Radisson South, 7800 Normandale Blvd., Minneapolis, Minn.-----	191. 94
Bush Hill Transportation Co., 109 Norfolk St., Dorchester, Maine---	192. 70
Budget Rent-A-Car, 7195 South Bay Rd., North Syracuse, N.Y.---	150. 00
Chateau Inn, Box 506, Chidress, Tex.-----	141. 85
Cherry Hill Inn, Cherry Hill, N.J.-----	218. 06
H. F. Rental, Learing Inc., Route 230, Highspire, Pa.-----	519. 74
St. Anthony Hotel, Post Office Box 2411, Houston, Tex.-----	1, 068. 71
Sheraton Ohio Motels, 210 North Main Street, Dayton, Ohio.-----	1, 013. 10
Pawtuxent Valley Bus Lines, 76 Industrial Lane, West Warwick, R.I.-----	173. 25
Color Film Corp., Post Office Box 5003, Stamford, Conn.-----	268. 60
Eastshore Lines Charter Service, 55 Townsend Court, San Fran- cisco, Calif.-----	297. 00
Haines and Co., 8050 Freedom Avenue, N.W., North Canton, Ohio-----	684. 26
Hayes Motor Hotel, Jackson, Miss.-----	161. 30
Holiday Inn of Houston-NASA, 1300 Nasa Boulevard, Houston, Tex.-----	453. 05
Hollenden Tavern, Inc., East Sixth and Superior Avenue, Cleve- land, Ohio.-----	128. 71
Imperial Air Freight Service, Inc., 151 Oliver Street, Newark, N.J.-----	411. 27
Yellow Cab Co., Inc., 816 Eye Street, NW., Washington, D.C.---	120. 00
Welch Catering Co., 1226 Folsom Street, San Francisco, Calif.---	165. 90
Airporttransit, 10053 International Road, Los Angeles, Calif.---	142. 50
Quadrangle Books, Inc., 330 Madison Avenue, New York, N.Y.---	307. 17
Ramada Inn, 2151 South Hotel Circle, San Diego, Calif.-----	102. 66
Sherman House, Randolph Clark, LaSalle Street, Chicago Ill.-----	2, 327. 88
Robolith, 45-35 Van Dam Street, Long Island City, N.Y.-----	4, 173. 32
Union Dining Service, Room 110, Union Building, Box 7036, Uni- versity Station, Austin, Tex.-----	207. 16
Uptowner Inn, Inc., 1415 Fourth Avenue, Huntington, W.Va.-----	288. 75
Total -----	35, 322. 32

In a letter to Senator Ervin, Senator McGovern commented on the practice of his Presidential campaign settling certain obligations at less than their face amount:

First, when these debts were settled, there was every reason to believe that the McGovern campaign would not have enough money to cover all remaining obligations in full.

At the beginning of January, 1973, when the letter suggesting a settlement to creditors was sent out, the McGovern for President Committee had debts totaling some \$800,000 and cash on hand of about \$460,000. It was in part through settlements, both of personal loans to the campaign and of these few bills owing to corporations, that the deficit was worked down. By the end of February we were down to

roughly \$100,000 in the red. Over time, with the payment of such bills owed to the campaign as press payments for air transportation, we ended up with a net surplus in terms of bills currently due. However, we were still obliged to hold reserves against such potential obligations as a workmen's compensation suit in Oregon and a large tax claim. As recently as March 7, 1974, the treasurer of my campaign, Henry Kimmelman, advised me that our possible liabilities still exceeded our assets, even including in those assets earnings since the campaign from interest and rental of the mailing list.

It may be argued that the feature distinguishing my campaign from other campaigns which have settled debts to corporations at less than their full value is the fact that pending disposition of remaining claims, there is at the moment a net balance remaining from my 1972 effort. But the fact is that at the time these settlements were made we were confronted with a sizable deficit, which was eliminated only because a number of creditors were willing to extinguish our obligations in exchange for less than the total due.

It is, of course, possible to look back from some 15 months later and conclude that we could have paid more of the obligations than were settled, and perhaps even to make a value judgment that in doing that we should have given a priority to corporate debts as opposed to individual loans and staff salaries and expenses which were in arrears because of a post facto conclusion that corporate settlements, although wholly at arms length, are nonetheless akin to corporate contributions. But I suggest that charging us to foresee in January of 1971 how the books would ultimately balance out sets a requirement for superhuman foresight. Indeed, we cannot even foresee that for certain now. With liabilities greatly in excess of our firm assets, the only prudent thing to do at the time was to contact all creditors and suggest a settlement of the debts. That is precisely what we did. And as individual creditors responded, we made the agreed partial payments to extinguish the individual debt.

With respect to the campaign's transferring certain funds to Senator McGovern's reelection campaign, he had the following comment:

Funds were transferred from the Citizens for McGovern Committee, a Presidential campaign committee, to my Senate campaign committee during the time when these debts were being settled. There is, of course, no prohibition against such transfers, even if it had been money raised at the national level.

But in fact, these funds were not available for use in paying off debts incurred by the national McGovern campaign.

Part of the funds transferred during the period when debts were being settled came from State and local McGovern committees, which had money remaining after the campaign. Those were funds raised on their own by autonomous committees working on behalf of my campaign. And the money was

sent in to Washington after the election with the explicit understanding that it would be used in my 1974 campaign for re-election to the Senate. These groups had authority to dispose of their remaining funds in any way they saw fit, and they chose to support my South Dakota campaign. Application of their money to debts incurred by the national McGovern campaign—debts which were not the responsibility of those State and local groups—would have violated the choice they had every right to make in regard to the disposal of whatever balances they had on hand when the campaign was over.<sup>11</sup>

Like our national campaign committees, these various committees around the country were also reporting to the General Accounting Office. After consulting with legal counsel and with the Democratic Senatorial Campaign Committee, we temporarily deposited these funds in the account of the Citizens for McGovern Presidential Committee, to assure that the GAO records would show both ends of the transaction. This also had the advantage of simplifying our own book-keeping operations.

In addition, after the Presidential campaign was over, we received a number of individual contributions from around the country for my Senate campaign. Those funds, too, were deposited temporarily in the Citizens for McGovern account.

## X. CASH CONTRIBUTIONS BY CONTRACTORS

Because of the withdrawal by Presidential candidate John V. Lindsay, then mayor of New York City, prior to April 7, 1972, the Lindsay campaign committee did not file a Federal report concerning their campaign finances. However, the receipt of cash contributions and the use of a safe deposit box after April 7, 1972, became the subject of a committee inquiry. Two \$5,000 contributions in cash by officers of companies doing business with New York City are the focus of this discussion.

In early 1972, David W. Keiper, then deputy commissioner for the department of highways in the city of New York, solicited campaign contributions to assist the Lindsay campaign. Keiper stated that though not asked by anyone to solicit campaign contributions for candidate Lindsay, his actions were prompted by reading a newspaper article which related that Lindsay had sustained a \$100,000 debt with the conclusion of the Florida primary. Prompted by this concern, Keiper contacted Peter Jordan, a subordinate who was general supervisor of the New York City Highway Department, Queens Plant, located in Flushing, N.Y. Keiper stated that he advised Jordan of the need for funds on the part of the Lindsay campaign and asked Jordan whether he might be able to be of some help. Keiper stated that he believed that he and Jordan, in their conversation, mutually arrived at a plan to seek campaign contributions, but denied that there was any specific mention of soliciting contractors or suppliers of goods to the city of New York. This conversation took place at Keiper's office.

<sup>11</sup> There is no claim by the McGovern Presidential campaign that the individuals who actually contributed to the State and local Presidential committees were consulted about the use of their contributions in the senatorial campaign.

Keiper stated that approximately a week after his initial conversation with Jordan, he met Jordan for lunch at a restaurant, and at that meeting Jordan furnished to him an envelope containing \$10,000 in \$20 bills. Keiper stated that Jordan did not tell him from whom the contributions were obtained but indicated to him that the names of the contributors were included with the cash in the envelope. Keiper advised the committee staff that he did not count the money to assure himself that, in fact, \$10,000 was there, but only delivered the envelope to the Lindsay Lexington Avenue headquarters where he personally handed it to Richard Aurelio, a former deputy mayor of New York City, and at that time Lindsay's campaign manager. Keiper stated that Aurelio accepted the contribution, glanced at the contents of the envelope and then delivered the envelope to a third person and told him to count it and list it according to the names of the contributors. Keiper stated that he had no conversation with candidate Lindsay with regard to this cash contribution and denied that he knew that the \$10,000 contribution was obtained from two contractors who did business with the city of New York until a later time when he was questioned by a New York City investigator. On this occasion he learned that \$5,000 was contributed by Frank Licourti, owner of the Mascali Construction Corp., and \$5,000 by Frank Castagleoni, a partner of the Jet Asphalt Corp. with Lou and Fred Durante.

On November 6, 1973, in a staff interview, Jordan confirmed that he had had a conversation with his former supervisor, Keiper, relating to the financial needs of the Lindsay campaign. (Keiper had formerly exercised supervision over the Queens Highway Department Plant which provided about one-third of the New York City asphalt production.) Jordan generally affirmed the information furnished by Keiper and related that in response to Keiper's request for contributions to assist the Lindsay campaign, he did, in fact, contact Castagleoni and Lou Durante, whose corporation is a substantial supplier of asphalt to the Queens Plant. Jordan mentioned to Castagleoni and Durante his desire to obtain funds for the financially overextended Lindsay campaign and, though not being able to recall specifically, he stated that he may have mentioned an amount of money that he was seeking. On the same day, Jordan talked to Licourti, of the Mascali Corp., which is located near the Jet Asphalt Corp. in Flushing, N.Y. About a week later, while on one of his daily visits to the Jet Asphalt Corp. and the Mascali Corp., he inquired of the owners what they were going to do concerning the contributions he had requested. Jordan stated that he received a \$5,000 contribution from Licourti and a \$5,000 joint-contribution from the coowners of the Jet Asphalt Corp. Jordan stated that, though the money was furnished to him in cash, he did not make a request for cash; and he had no recollection that in his discussions with Keiper that cash contributions were mentioned.

Subsequent to obtaining the contributions from the officers of these two corporations, Jordan met Keiper at the Amber Lantern Restaurant in Flushing, N.Y., and handed Keiper an envelope which contained the \$10,000 in cash. Jordan stated Keiper told him at that time—and later confirmed it—that he would take the money directly to Lindsay headquarters and give it to Aurelio.

On November 5, 1973, in staff interview, Castagleoni advised the committee that he had, in fact, furnished a \$5,000 contribution, one-third of which was given by each partner of the Jet Asphalt Corp. He related that the solicitation and contribution were consummated in late May or early June of 1972, and he confirmed that the solicitation was from Jordan, whom Castagleoni knew to be active in politics. Castagleoni stated that he understood that the money he was furnishing Jordan was for the Lindsay campaign. However, he denied that the contribution was in any way related to the awarding of contracts to his company by the city of New York.

The committee uncovered evidence that the Jet Asphalt Corp. and the Mascali Corp. did, as a joint venture, make a bid and was awarded a contract in about July 1972 in the gross amount of \$1,700,000, to provide asphalt to the city of New York for the period from July 1, 1972 to July 25, 1973. Castagleoni denied that he saw anything wrong with the contribution he had furnished to Jordan with the qualification added—"so long as the funds were personal and not corporate."

Richard Aurelio, interviewed by the committee staff on October 17, 1973, stated that he was the senior official of the Lindsay campaign and functioned as campaign manager from December 1971 until early April 1972, when Lindsay withdrew from the race. Prior to December 1971, Aurelio had been deputy mayor of New York City and served in that capacity for 2 years. In response to inquiry concerning Aurelio's recollection of any cash contributions in excess of \$1,000 received by the Lindsay campaign, Aurelio stated that he could recall only one situation which involved the receipt of two contributions in cash of \$5,000 each. He explained that a short time after the Lindsay withdrawal, a New York City official delivered either one or two envelopes containing the two \$5,000 contributions. He acknowledged that the money was contributed by two Queens contractors, but denied knowing either the names of the contractors or the city official who delivered these contributions. Aurelio acknowledged some awareness of a contribution to the Lindsay campaign from Mrs. John Loeb and a second contribution through Mrs. Loeb from Dwayne Andreas. However, he disavowed any knowledge that cash was furnished in these transactions.

Aurelio stated that he was aware that the Lindsay campaign had a bank safe-deposit box available for its use. However, he denied any knowledge of the location of the safe-deposit box. He stated that Fergus Reid III was the senior financial official with the Lindsay campaign and the individual who would have custody and control, as well as knowledge of those items maintained in the safe-deposit box. Aurelio, when pressed for further details, advised that it was his belief that the cash contributed by the two Queens contractors had been placed in a safety deposit box and that he had later learned of a disbursement from these funds for the payment of a polling bill.

On September 21, 1973, Fergus Reid III advised the committee staff that he served as the treasurer for Lindsay's 1972 Presidential campaign from December 1, 1971, until Lindsay withdrew after the Wisconsin primary. Reid described his responsibilities as receiving, maintaining, disbursing, and accounting for Lindsay's funds. He stated that he did not have any responsibility for fundraising—that is, the actual solicitation—but he was on several occasions the recipient



of contributions to the campaign. Reid identified Steve McDonald as the finance director for the Lindsay campaign, who had responsibility for fundraising efforts.

Reid furnished to the committee the names of the Lindsay campaign committees in whose names checking accounts were maintained at the Chemical Bank of New York City. He identified these committees: "The Elect John Lindsay Committee," the "Lindsay in 1972 Committee," and the "Aurelio Testimonial Committee." In addition, Reid confirmed that the Lindsay campaign did have a safe-deposit box which, though at the time of this interview Reid believed to be at the Chemical Bank, he later provided information that the safe-deposit box was located in the First National City Bank at 111 Wall Street, New York City. In response to questions concerning cash contributions to the Lindsay campaign, Reid advised the committee staff that he could personally recall three persons who contributed sums in cash. One was John Loeb, and the other two were building contractors in Queens, the last two having contributed \$5,000 each. Reid denied any knowledge of the circumstances surrounding the contributions furnished by the Queens contractors and specifically stated that he had no knowledge with regard to the reasons for which the contractors made these contributions in cash. In a subsequent interview on October 2, 1973, Reid advised the committee staff that he had determined that the safe-deposit box served to provide a ready source of cash disbursement to advance men and petty cash reimbursements to campaign workers. Though conceding that he had access to the safe-deposit box along with Steve McDonald, the Lindsay finance director, Reid denied that he had ever used the box and stated that, to the best of his recollection, the most cash ever in the box was approximately \$15,000.

Steve McDonald, finance director for Lindsay's principal campaign committee, "Lindsay in 72", began his duties in December 1971 and concluded his full-time paid employment on April 10, 1972. McDonald told the committee staff, on September 24, 1973, that he did not know of any solicitation activity to obtain political contributions in cash and further stated that he had no knowledge that others connected with the Lindsay campaign solicited cash. He stated that he had knowledge of some cash contributions in excess of \$1,000 and noted that he personally received a \$10,000 cash contribution from Mrs. John Loeb, which he obtained from a secretary in John Loeb's office. He stated that he had no recollection of discussing this particular contribution with Lindsay and could offer no explanation as to why this contribution was in the form of cash. McDonald stated that he delivered this cash contribution to Reid's office where, to the best of his recollection, he gave the money to Mrs. Elaine Wallenstein. McDonald stated that he believes the \$10,000 cash contribution was put in a safe-deposit box, but he claims no knowledge as to the use made of these funds. McDonald related that at a subsequent time, possibly before the Florida primary, Mrs. Loeb gave to him an additional \$5,000 cash contribution which she told him was from Dwayne O. Andreas. Again McDonald transmitted this cash contribution to Reid's office. McDonald recalled that there was another cash contribution received by the Lindsay committee and that contribution was from a New York architect. McDonald denied knowledge of any

cash contributions coming from contractors doing business with the city of New York and further stated that he had no knowledge of the use of cash to pay for any goods and services in excess of \$500.

Mrs. Elaine Wallenstein was interviewed by the committee staff on October 26, 1973. She advised that she handled the bookkeeping duties which included the recording and the deposit of contributions received by the Lindsay campaign. She noted that the Lindsay campaign treasurer's office was located at 110 Wall Street. Mrs. Wallenstein advised the committee that, at the direction of her supervisor, Reid, she had leased a safe-deposit box from the First National City Bank of New York City in late December of 1971 or early January of 1972. She noted that the signatories for the box were, in addition to herself, Reid and McDonald and that, for the sake of convenience, the box had been leased in her name rather than in the name of the Lindsay campaign. At the time the bank deposit box was opened, Mrs. Wallenstein stated that she recalled a conversation with Reid during which she believed he told her that Aurelio had requested that a safe-deposit box be opened. She stated that in January of 1972, at about the same time the bank safe-deposit box was opened, she received a sealed envelope from the Lindsay Madison Avenue headquarters and was instructed to put the envelope in the safe deposit box, which she did. She stated that she cannot recall any marking on the envelope, nor can she explain her belief that the envelope contained an unknown amount of cash. She recalled that approximately a week later she was instructed to take the envelope out of the box and have it delivered to the Madison Avenue headquarters. She kept no record of the receipt or return of the envelope to the Lindsay headquarters and stated that she has no knowledge of what was done with the package after delivery. Mrs. Wallenstein stated that in July 1972 she received a phone call from Reid asking that she pick up a package for him at Aurelio's home. She stated that she followed these instructions and obtained from Aurelio an envelope which she later opened. She stated that the envelope contained \$20,000 in cash, but she has no recollection as to the denomination of the bills. She placed this money in the safe-deposit box and informed Reid of her actions on this matter. He then instructed her to bring all or part of the cash (she cannot remember) in the envelope to the finance office. Upon receiving these instructions, she took the envelope out of the box and delivered it to Ms. Emily Aurelio. She recalled that Reid had told her that some bills would be paid with these moneys.

Mrs. Wallenstein advised the staff that the only other occasion she could recall using the bank box was in late April 1972 and at that time McDonald had delivered to her an unsealed envelope which contained cash. She stated that she did not count the money and, on the following day, upon receiving instructions from Reid, she removed the envelope and delivered it to the Lindsay headquarters. Though she stated she did not know to whom she was delivering these various amounts of cash, it was her belief that these moneys were going to Aurelio. In addition, Mrs. Wallenstein stated that no records of receipt or deposit to the safe-deposit box relating to the contents were ever made.

Mrs. Wallenstein advised that she had no knowledge that cash contributions had been received from John Loeb, Dwayne Andreas, Frank Castagleoni, or anyone else. She related that any such cash contribu-

tions could represent the deposits she made to the safe-deposit box; but she said that this was speculation on her part.

Ms. Emily Aurelia advised the committee that she worked in the capacity of clerk/typist from January 1972 to October 1972 for the Lindsay campaign. She stated that she could only remember three instances wherein she handled cash contributions in excess of \$1,000 and recalled that on one occasion in January 1972 she picked up \$2,400 at the Madison Avenue headquarters and deposited this money in the campaign account "Aurelio Testimonial Account." This account was located in the Chemical Bank of New York. She noted that, so far as she knew, this cash represented the sale of dinner tickets. Ms. Aurelia recalled that in July or August of 1972, at the request of Mrs. Wallenstein, she typed two receipts in the total amount of \$7,800 to two business concerns. In the second case, when she counted the cash in the presence of Mrs. Wallenstein, they found that they were \$100 short, so she accompanied Mrs. Wallenstein across the street to the First National City Bank where she withdrew additional funds from the safe-deposit box. Ms. Aurelia stated that this was her first knowledge of the existence of a safe-deposit box, and the only time she had occasion to go to the box.

## XI. CAMPAIGN FINANCING RECOMMENDATIONS

### INTRODUCTION

In making its legislative recommendations the Select Committee has made a number of proposals that it believes will reduce the likelihood of future abuses. In so doing, it wishes to emphasize two points. First, full disclosure of contributions and expenditures as well as of governmental action affecting contributors is the critical minimum of campaign financing reform. But for even this minimum to be an effective tool, the data must be accessible and reviewed by those with an interest in the Government process, including candidates and the press. Second, the temptation to overregulate must be viewed in terms that such action would have on the willingness of citizens to participate voluntarily in the electoral process. For example, the committee considered a proposal to require the registration of campaign fund solicitors since, arguably, it made little sense to identify the passive treasurer of a political committee but not the active fundraiser. It was felt, however, that whatever benefits would flow from requiring fundraisers such as Herbert W. Kalmbach to register under some penalty for failure to comply would be offset by the chilling effect such a requirement might have on speakers at local political meetings or on door-to-door canvassers. Since many fundraisers do not actually handle the contribution they may have solicited, it was concluded that it was not feasible to use a cutoff amount below which registration would not be required. This is not to say, however, that the idea has no merit.<sup>12</sup>

A further word should be said about the timing of the enactment of the effective date of any corrective legislation. One of the most

<sup>12</sup> The Independent Federal Elections Commission recommended this report could, of course, investigate particular alleged abuses.

bizarre aspects of the 1972 Presidential campaign was at the time frantic effort on the part of the Finance Committee To Re-Elect the President to obtain large contributions prior to April 7, 1972, so that they would not have to be reported under the then prevalent interpretation of the Corrupt Practices Act. In the weeks prior to the April 7 deadline, according to Kalmbach and others, FCRP solicitors were seeking large contributions from individuals with the inducement that the contributions would remain confidential while later contributions would have to be publicly revealed.

Sloan testified that the committee collected "an avalanche" of contributions during the last 5 days before April 7 and that he handled \$6 million in contributions in the 2 days before April 7. In addition, in an effort to reduce the reported cash on hand as of April 7, 1972, as required by the Federal Elections Campaign Act of 1971, the FCRP prepaid for services that would not be provided until after April 7. According to Paul Barrick, Sloan's successor as treasurer of FCRP, the total of \$3,787,480 was prepaid in this fashion. A similar influx of pre-April 7 contributions was found in certain Democratic campaigns.

With the arrival of April 7, there was a substantial reorganization of FCRP, including the setting up of new committees and adapting the structures to the new law. It appears, however, that in a number of cases, there was a spillover to post-April 7.

Any significant change in the law with respect to campaign financing late in the campaign creates the potential for abuses such as occurred in the 1972 Presidential election.

Thus it is important that any relevant changes in the law with respect to contributions or expenditures which are enacted should be done so early in the campaign and made effective upon the signing of the bill into law by the President in order to avoid a last minute rush for contributions.

**1. The committee recommends that the Congress enact legislation to establish an independent, nonpartisan Federal Elections Commission which would replace the present tripartite administration of the Clerk of the House, Secretary of the Senate, and GAO Office of Federal Elections and would have certain enforcement powers.**

Probably the most significant reform that could emerge from the Watergate scandal is the creation of an independent nonpartisan agency to supervise the enforcement of the laws relating to the conduct of elections. Such a body—given substantial investigatory and enforcement powers—could not only help insure that misconduct would be prevented in the future, but that investigations of alleged wrongdoing would be vigorous and conducted with the confidence of the public.

The present system of administration of the Federal election and disclosure laws consists of a tripartite system of administration by the Clerk of the House, the Secretary of the Senate, and the GAO Office of Federal Elections. These three bodies are responsible for receiving and monitoring the reports filed by candidates for Federal Office and their political committees. Criminal violations discovered by these three bodies must be reported to the Justice Department for prosecution. Because the three administrative bodies are not vested with

subpena or investigative powers, the difficulty of discovering and investigating apparent violations is magnified under the present system. In addition there is no central repository of information relating to all Federal candidates.<sup>13</sup> Each of the three bodies has developed its own rules as to monitoring the reports and making them available to the public. Separate administration makes equal treatment difficult to achieve.

In addition to the administrative problems of the present system, the independence of the administrators can be questioned. As noted in a recent speech by the head of GAO, Comptroller General Elmer Staats, confidence in impartiality is weakened in a situation where the administrator comes up for appointment every 2 years by the employers he is required to police.

With the exceptions noted below, the committee adopts sections 308 and 309 of S. 3044 which would create a Federal Elections Commission and vest in it certain enumerated powers.

Under the Senate bill, the Commission would be composed of seven members appointed by the President with the advice and consent of the Senate who would serve 7-year terms. Not more than four of the commissioners would be members of the same political party. Of the seven, two members would be appointed by the President from among individuals recommended by the President pro tempore of the Senate upon recommendations of the majority leader of the Senate and the minority leader of the Senate and two members would be appointed by the President from among individuals recommended by the Speaker of the House of Representatives upon the recommendations of the majority leader of the House and the minority leader of the House. With respect to the first members chosen to serve on the Commission, the committee recommends that terms be staggered in the manner provided for in section 308(a)(3) of S. 3044.

The Commission would elect a chairman and vice chairman from among its members for a 2-year term. The Select Committee considered and rejected the proposal (contained in H.R. 7612) that the President appoint the chairman and vice chairman of the Commission. The chairman and the vice chairman would not be members of the same political party. The Select Committee's recommendations as to the appointment of the Commission members are designed to promote and insure the independence and nonpartisan character of the Commission.

The provisions of section 7324 of title 5, United States Code (Hatch Act) would apply to members of the Commission.

At the end of each fiscal year the Commission would report to the Congress and the President concerning the action it had taken, the names, salaries, and duties of its employees, and the money it had disbursed. In addition, the Commission would make such recommendations for legislation as it deemed necessary.

The Commission would appoint an executive director and a general counsel to serve at the pleasure of the Commission. The Select Committee recommends that the executive director be responsible for the administrative operations of the Commission and that he perform

<sup>13</sup> An important function of the Commission could be to act as a repository for information and documents that would have historical interest. Further, candidates could agree to utilize this aspect of the Commission—which might be called The Library of Political Comment—to file copies of their itineraries and campaign literature so as to reduce the temptation to employ spies to learn of the activities of opposition candidates.

such duties as may be delegated to him by regulations or other orders of the Commission. Because the committee believes that the Commission should not be permitted to delegate to the executive director or the general counsel the power or responsibility of making any of the Commission's regulations, it does not adopt the wording of section 309(h) of H.R. 7612 and section 308(f) of S. 3044 which provide that the Commission shall not delegate to the executive director the making of regulations regarding elections. Presumably, this section permits the Commission to delegate to the executive director the responsibility for making some regulations. Although it is unclear what responsibilities the executive director would have under this section, the committee suggests that the nature of the Commission's responsibilities would not best be served by granting to one person the ultimate power to regulate either the procedure or the administration of Federal elections.

To insure that the Commission is responsive to the Congress as well as to the President, the committee supports certain other provisions of S. 3044. Thus, whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it should be required concurrently to transmit a copy of that estimate or request to the Congress. The committee recommends enactment of section 308(k) (1) of S. 3044 which proposes that whenever the Commission submits any legislative recommendations, or testimony or comments on legislation requested by the Congress or by any Member of Congress to the President or to OMB, that it shall concurrently transmit a copy thereof to the Congress or to the Member requesting the information.

The committee also supports that part of section 308(k) (1) which proposes that no officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress. In addition, the committee recommends that no officer or agency of the United States have authority to require the Commission to submit its regulations to any officer or agency of the United States before such regulations are adopted by the Commission.

The committee recommends that the Commission be vested with all the powers included in section 309 of S. 3044. Specifically, the Commission would have the power to require any person to submit written reports and answers to questions as the Commission may prescribe. The Commission would have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses and the production of all documentary and other evidence relating to the execution of its duties. In addition, the Commission would have the power to order testimony to be taken by deposition and to initiate, prosecute, defend and appeal, through its General Counsel, any civil action in the name of the Commission.

In order to give the Commission primary jurisdiction over enforcement of statutes regulating Federal elections and campaigns the Committee supports section 309(d) of S. 3044. This section provides that, notwithstanding any other provision of law, the Commission would be the primary civil enforcement agency for violations of the

provisions of S. 3044 and sections 602, 608 and 610-617 of title 18, United States Code. While S. 3044 provides that any violation of such provision shall be prosecuted by the Attorney General or Department of Justice personnel after consultation with, and obtaining the consent of, the Commission, the Select Committee recommends in accordance with its other recommendations that the Commission refer apparent criminal violations to the Permanent Office of Public Attorney when appropriate.

The present statutory framework is deficient in failing to provide a civil penalty. There are numerous provisions of present and proposed law which, if violated, would best be handled on a civil rather than a criminal basis. For example, the late filing of required campaign financing reports traditionally have gone unpunished because the violation of law did not appear to merit the imposition of a criminal penalty. Imposing a civil fine would be an appropriate means of enforcing this statute in nonflagrant cases.

Consequently, the committee recommends adoption of section 309 (e) (1) of S. 3044 providing for a civil penalty of up to \$10,000 for each violation of the provisions of S. 3044 and of sections 602, 608 and 610 through 617 of title 18, United States Code. Civil penalties would be assessed by the Commission only after the person charged with a violation had been given an opportunity for a hearing.

The committee also supports section 309(f) of S. 3044 which provides a mechanism by which the Commission may provide advisory opinions. The Commission would issue such opinions, within a reasonable time, as to whether any specific transaction or activity inquired of constitutes a violation of S. 3044 or of any provision of title 18, United States Code, over the Commission has primary jurisdiction.<sup>14</sup>

## **2. The committee recommends enactment of a statute prohibiting cash contributions and expenditures in excess of \$100 in connection with any campaign for nomination or election for Federal office.**

Although the reporting and disclosure requirements of the Federal Election Campaign Act minimize the availability of unaccounted for campaign funds, there is presently no Federal statute regulating the use of cash during political campaigns. The difficulties of tracing the use of cash contributions and expenditures during a campaign are apparent. The committee's investigations showed the abuses of cash funding during the 1972 campaign. Cash contributions from corporations as well as individuals and cash expenditures by political committees were commonplace.

Corporate funds were illegally laundered through foreign banks and subsidiaries and then contributed in cash form to political committees which reported neither the source nor the ultimate use of the money. The exact amount of cash collected during the campaign cannot accurately be determined. However, in testimony before the Select Committee, Hugh Sloan testified that of the \$20 million collected by

<sup>14</sup> Another function of the Commission could be to publicize the relevant laws and the importance of citizen participation in politics, whether by expending time and effort in a contest or making a small contribution. For example, importance of this activity in generating small contributions is demonstrated by the quadrupling of the use of the income tax check-off following its being moved to page 1 of IRS Form 1040 and the simultaneous publicity given to it.

the campaign prior to April 7, 1972, \$1.7 or \$1.8 million was in cash,<sup>15</sup> and cash contributions to Democratic candidates totaled hundreds of thousands of dollars. A prohibition on cash contributions in excess of \$100, coupled with the disclosure requirements of the 1971 Act, would be a deterrent against unreported cash contributions from individuals and corporations. In this regard, the committee supports section 616 of S. 3044 which prohibits political contributions in the aggregate over \$100 unless the contribution is made by a written instrument, such as a check, identifying the person making the contribution.

The committee also supports section 311(b) of the bill which prohibits a political committee from expending in excess of \$100 in cash in connection with a single purchase or transaction. In this regard, there may be instances where larger amounts of cash may have to be expended—for example, buying meals for campaign workers—and it may be desirable for the commission to have the power to make limited exceptions by regulation and require certain recordkeeping or the like.

**3. The committee recommends enactment of statute requiring each candidate for the office of President or Vice President to designate one political committee as his central campaign committee with one or more banks as his campaign depositories.**

Under the present system of campaign disclosures every political committee supporting a Presidential candidate must file periodic reports with the Office of Federal Elections of the General Accounting Office.<sup>16</sup> There is no present requirement, however, that a Presidential candidate consolidate the records of contributions and expenditures of political committees made for his benefit or on his behalf, thereby partially undermining the law's disclosure requirements. During the 1972 campaign, contributions and expenditures for particular candidates were made into and out of hundreds of committees.

In the interest of establishing more uniform accounting and reporting procedure, the Select Committee recommends the adoption of sections 310 and 311 of S. 3044.<sup>17</sup> Section 310 requires each candidate<sup>18</sup> to designate one political committee as a central campaign committee and permits each candidate for the office of President to designate one political committee in each State as his State campaign committee for that State. Central campaign committees would be required to file statements and reports with the Federal Elections Commission. Other political committees which are not central campaign committees

<sup>15</sup> 2 *Hearings* 535.

<sup>16</sup> Section 304(a) of the Federal Election Campaign Act of 1971 provides in part:

Each treasurer of a political committee supporting a candidate or candidates for election to Federal office, and each candidate for election to such office, shall file with the appropriate supervisory officer reports of receipts and expenditures on forms to be prescribed or approved by him. Such reports shall be filed on the 10th day of March, June, and September, in each year, and on the 15th and 5th days next preceding the date on which an election is held, and also by the 31st day of January.

<sup>17</sup> These provisions are virtually identical to sections 310 and 311 of S. 372 which passed the Senate on July 30, 1973.

<sup>18</sup> Section 301 of the Federal Election Campaign Act of 1971 defines the term "candidate" as follows:

... an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office.



of the candidate would be required to file their statements and reports with the central campaign committee instead of the Commission.

Laundering of funds is often accomplished by contributing and transferring funds from committee to committee so as to obscure the original source and make it impossible to trace the money to the intended beneficiary or use. The Select Committee believes that the requirements of a central campaign committee and a designated depository increase the traceability of campaign funds by putting the responsibility for collecting and reporting campaign financial information in a centralized place.

**4. The committee recommends enactment of a statutory limitation on overall campaign expenditures of Presidential candidates. The committee proposes a limit on expenditures of 12 cents times the voting age population during a general election.**

Present law permits unlimited spending for Presidential campaigns. As a result, the cost of Presidential campaigns has been rising at an astounding rate. In 1956 President Eisenhower's campaign for re-election cost approximately \$8 million. The 1972 Presidential campaign cost over \$100 million. If Presidential candidates are permitted to raise unlimited amounts of money, campaign spending will continue to soar leading to uneven access to the electorate and surpluses in the hands of certain candidates.

The Select Committee believes that a limit on contributions by source must be accompanied by an overall limit on expenditures. Since a \$3,000 limitation on campaign contributions (recommended below) is an advantage to incumbent candidates—who are able to obtain moderate-sized contributions from a large number of individuals—an overall limit on campaign expenditures is needed to minimize the disparity in campaign spending between incumbents and challengers.<sup>19</sup>

The committee recommends the adoption of the limitation provided for in section 614 of S. 3044 as passed by the Senate. As reported by the Senate Committee on Rules and Administration the bill called for an overall limitation of 15 cents times the voting age population of the United States.<sup>20</sup> The full Senate, however, adopted an amendment introduced by Senator James Allen (D-Ala.) to reduce to 12 cents the multiplier applied to the voting age population to obtain the overall limitation. The bill also provides that expenditures made by or on behalf of a Vice Presidential candidate are, for purposes of the expenditure limitation, considered to be made by the Presidential candidates with whom he is running.

The Select Committee further recommends a limitation on expenditures of Presidential candidates in primary elections. In this regard, the committee recommends adoption of the limitation provided for in section 504(a)(2)(A) of S. 3044. This section provides for an expendi-

<sup>19</sup> There may be a constitutional argument against limiting campaign expenditures—that the Government cannot deprive a candidate of the right to address voters or the right of the voters to be exposed to the issues in a campaign. See Election Reform: Basic References, U.S. Senate Select Committee on Presidential Campaign Activities, Committee Print, November 1973, pp. 57–88, 271–336, 421–516, 627–61. Of course there are considerations that support reasonable limitations and it is believed that a limitation such as appears in S. 3044 would be acceptable to the courts.

<sup>20</sup> The term "Voting Age Population" is defined in Section 504(g) of S. 3044 as: "resident population, 18 years of age or older."

ture limit of "two times the amount which a candidate for nomination for election to the office of Senator from that State may expend in that State in connection with his primary election campaign."

While the imposition of a realistic ceiling is an important and necessary reform, caution should be exercised lest a ceiling be placed so low as virtually to insure the renomination and reelection of incumbents. Since an incumbent is generally better known and begins with a substantial built-in advantage, to limit challengers unduly would prevent their getting known and instituting a serious challenge. Furthermore, it should be recognized that it costs a considerable amount of money to raise small and medium-size contributions. It costs very little to solicit more than \$10 million in contributions in \$100,000 increments; on the other hand, many direct mail campaigns designed to raise large numbers of small contributions actually lose money.<sup>21</sup> Inflationary factors should be taken into account in any ceiling to permit an upward adjustment. The committee recommends that any overall limit on campaign expenditures be evaluated following the first election in which it applies to make certain that it is neither too low nor too high.

**5. The committee recommends enactment of a statutory limitation of \$3,000 on political contributions by any individuals to the campaign of each Presidential candidate during the prenomination period and a separate \$3,000 limitation during the post-nomination period. A contribution to a Vice-Presidential candidate of a party would be considered, for purposes of the limitation, a contribution to that party's Presidential candidate.**

The basic purpose of a limit on contributions from any one source is to minimize the potential influence or appearance of impropriety which might result from large contributions. An additional objective of the limit is to broaden the base of candidates' financial support by appealing to larger numbers of voters. However, the limit must not be set so low as to make private financing of elections impractical. In addition, the limitation must meet the apparent first amendment requirement that restrictions on political contributions be limited to the minimum regulation necessary to serve a compelling need.<sup>22</sup> Although present law does not limit the amount of contributions to Presidential candidates (18 U.S.C. 608), the Federal Corrupt Practices Act, which was repealed by the Federal Election Campaign Act of 1971, did prohibit contributions in excess of \$5,000. Fraught with ambiguity and loopholes, this limitation proved to be totally ineffective, in part because there was no recommendation of single committee responsibility. Any statutory prohibition should be drafted so as to avoid the problems of the earlier statute.<sup>23</sup>

<sup>21</sup> According to a study prepared for the committee by GAO, a large portion of the contributions to the Presidential campaigns would have been lost if there was a limit of \$3,000. GAO estimates that the candidates would have lost the following proportion of their total receipts: Nixon—52%; McGovern—27%; Humphrey—69%; Muskie—33%.

<sup>22</sup> See generally, *Election Reform: Basic References*, U.S. Senate Select Committee on Presidential Campaign Activities, Committee Print, *supra*.

<sup>23</sup> During the 1972 campaign many large contributions were made in the form of stock. Much of this stock had appreciated in value and it appears that no tax was paid on the appreciated value. No illegality was detected in connection with these transactions. How-

The committee believes that a separate \$3,000 contribution limitation is reasonable as applied to Presidential campaigns. Thus, an individual could contribute \$3,000 to candidate A and a separate \$3,000 to candidate B during the prenomination period. If candidate A becomes the nominee of his party, this individual would be allowed to give an additional \$3,000 to candidate A's campaign during the general election. While any limitation is somewhat arbitrary, the committee considers President Nixon's proposal of a \$15,000 limitation for each campaign primary, runoff, and general election to be too high.<sup>24</sup> Under S. 3044 as passed by the Senate, the \$3,000 limitation does not apply separately to the primary and the general election period.<sup>25</sup>

A necessary corollary to a limit on contributions to Presidential candidates is a limitation on independent expenditures on behalf of a candidate without his authorization.<sup>26</sup> Such expenditures, if unrestricted, could be used to avoid and thereby undermine any limitation on contributions. For example, a person might purchase a series of full-page newspaper advertisements on behalf of a candidate.<sup>27</sup> On the other hand, there are serious constitutional arguments against an outright prohibition on independent campaign expenditures in view of the right of expression guaranteed by the first amendment.<sup>28</sup> A reasonable solution seems to be the adoption of a rule to the effect that if an individual acted on his own, and not at the suggestion or request of the candidate, he could expend a separate \$1,000 on behalf of one or more candidates during the prenomination and general election periods and would have the responsibility for reporting expenditures aggregating over \$100 on behalf of any candidate; such independent expenditures on behalf of a candidate would not count toward the overall expenditure limit of the candidate. The committee believes that this limitation is a constitutional balance between the competing interests of free speech and the governmental interest in campaign regulation.<sup>29</sup>

ever, some inequity seems to have resulted from this practice: thus, the donor of a gift of appreciated property to a private charity must pay a capital gains tax and there seems to be no reason why a contribution to a political party or candidate should be favored. Contributors of stock should be required to make their contributions in after-tax dollars just as other contributors. Although the adoption of a contribution limit reduces the scope of this inequity, it does not eliminate it. While the Internal Revenue Service has, by regulation, resolved this problem, it is believed a more permanent solution is required. Therefore, the appropriate Congressional committees should direct themselves to this question.

<sup>24</sup> In view of the fact that in 1972 there were 21 primaries plus the general election, a \$15,000 limit per contest would have permitted a contributor to have given \$330,000 to a candidate who entered all primaries and was the party's nominee. Such a provision could hardly be viewed as a major improvement over present law.

<sup>25</sup> The original version of the bill reported by the Senate Rules Committee applied the \$3,000 limitation separately to each primary and primary runoff and the general election. Under this proposal one person could have contributed \$3,000 to each of several primary campaigns of one candidate, up to a total of \$25,000.

<sup>26</sup> An expenditure made on behalf of a candidate with express authorization of the candidate must be considered a contribution to the candidate and, therefore, covered by the limitation on contributions to Presidential candidates.

<sup>27</sup> This method was engaged in on a substantial basis by Stewart R. Mott who supported Senator McGovern's candidacy.

<sup>28</sup> See *American Civil Liberties Union v. Jennings*, 366 F. Supp. 1041 (D.D.C. 1973), probable jurisdiction noted, June 10, 1974. 42 U.S.L. Week 3678, where a three-judge district court held section 104(a) of the Federal Elections Campaign Act of 1971 unconstitutional. That section prohibited the media from accepting campaign advertising unless the candidate or his representative certified that the expenditure would not exceed the candidate's statutory limit. A substantial portion of the responsibility for ascertaining the facts was placed on the media.

<sup>29</sup> See, for example, Senate Committee on Rules and Administration, S. Rep. No. 93-689, 93d Cong., 2d Sess. 18-19 (1974).

**6. The committee recommends that the Internal Revenue Code be amended to provide a credit in a substantial amount on individual and joint Federal income tax returns for any contribution made in a calendar year to a political party or any candidate seeking election to any public office, Federal, State, or local.**

In light of the fact that strict limitations on the form and amount of contributions are likely to create a shortage in the availability of campaign funds, the committee recommends the adoption of an effective new incentive to encourage an adequate number of small contributions.

The incentive which the committee suggests is a 100-percent tax credit for contributions up to a certain level, for example, \$25 for an individual return and \$50 for a joint return. The present law provides that a taxpayer may claim a 50-percent tax credit for a contribution up to \$12.50 or a tax deduction up to \$50; the amount is double in the case of a joint return.

The basic argument in favor of a 100-percent tax credit is that it provides a substantial amount of encouragement to the individual—particularly when combined with an educational campaign—to exercise his option to contribute to the candidate of his choice without the Government becoming involved directly in using tax funds for partisan campaign purposes. Certain other points may be made about the 100-percent credit: first, it draws on previous experience with a 50-percent tax credit and does not involve a wholesale reorganization of the present system with the risk that new problems will unexpectedly emerge; second, it is essentially a selfgenerating system which does not require a substantial machinery to administer; and third, it involves a uniform approach to primaries and elections and deals with the difficult problems of defining the desired level of support, if any, when there is a large number of fringe candidates, old parties that seem to have lost their following and new ones that appeal to a large number of voters. It should be noted that the proposal basically ties Government support to the support that the candidate has among the electorate and not to the support he may have among contributors. This is the case because, aside from the few months delay before a citizen can offset his tax credit against his taxes, a contribution below the credit ceiling costs a tax-paying contributor nothing.

**7. The committee recommends against the adoption of any form of public financing in which tax moneys are collected and allocated to political candidates by the Federal Government.**

The Select Committee opposes the various proposals which have been offered in the Congress to provide mandatory public financing of campaigns for Federal office. While recognizing the basis of support for the concept of public financing and the potential difficulty in adequately funding campaigns in the midst of strict limitations on the form and amount of contributions, the committee takes issue with the contention that public financing affords either an effective or appropriate solution. Thomas Jefferson believed "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical."

The committee's opposition is based like Jefferson's upon the fundamental need to protect the voluntary right of individual citizens to express themselves politically as guaranteed by the first amendment. Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns.

The abuses experienced during the 1972 campaign and unearthed by the Select Committee were perpetrated in the absence of any effective regulation of the source, form, or amount of campaign contributions. In fact, despite the progress made by the Federal Elections Campaign Act of 1971, in requiring full public disclosure of contributions, the 1972 campaign still was funded through a system of essentially unrestricted, private financing.

What now seems appropriate is not the abandonment of private financing, but rather the reform of that system in an effort to vastly expand the voluntary participation of individual citizens while avoiding the abuses of earlier campaigns.

#### **8. The committee recommends enactment of a statute prohibiting the solicitation or receipt of campaign contributions from foreign nationals.**

Under present law (18 U.S.C. 613) it is a felony to solicit, accept or receive a political contribution from a foreign principal or an agent of a foreign principal.<sup>30</sup> Section 613 also prohibits an agent of a foreign principal from making a political contribution on behalf of his principal or in his capacity as agent of the principal. The legality of political contributions by foreign nationals, then, hinges on the definition of the term "foreign principal." The Department of Justice has expressed the opinion that the term "foreign principal" as used in the section 613 does not have the same meaning as "foreign national." Since the term "principal" connotes the existence of an agency relationship, it is the Department's view that a foreign national is a foreign principal within the meaning of section 613 only if the principal has an agent within the United States. Therefore, in the opinion of the Department, it is not a violation of the statute to accept a direct political contribution from a foreign national who does not have an agent within the United States.<sup>31</sup>

As used in the prohibiting statute, the term "foreign principal," includes governments of foreign countries, foreign political parties, persons outside the United States who are not U.S. citizens and partnerships, associations, corporations, organizations or other combinations of persons organized under the laws of or having its principal place of business in a foreign country.

The legislative history of 18 U.S.C. 613 explains why the statute sanctions direct contributions by foreign nationals while prohibiting contributions by their agents. The statute was en-

<sup>30</sup> 18 U.S.C. 613 provides: Whoever, being an agent of a foreign principal, directly or through any person, either for or on behalf of such foreign principal or otherwise in his capacity as an agent of such foreign principal, knowingly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office, or whoever knowingly solicits, accepts, or receives any such contribution from any such agent of a foreign principal or from such foreign principal—shall be fined not more than \$5,000 or imprisoned not more than five years or both.

<sup>31</sup> Letter from L. Fred Thompson, Director of the Office of Federal Elections, General Accounting Office, printed in 93d Cong. Rec. March 28, 1974.

acted into law as a part of the Foreign Agents Registration Act Amendments of 1966.<sup>32</sup> The thrust of the 1966 amendments was to require disclosure of the political activity of foreign agents within the United States. The committee report of the Senate Foreign Relations Committee states:

The act is intended to protect the interests of the United States by requiring complete public disclosure by persons acting for or in the interests of foreign principals where their activities are political in nature or border on the political. Such public disclosures as required by the act will permit the Government and the people of the United States to be informed as to the identities and activities of such persons and so be better able to appraise them and the purposes for which they act.

The Congress did not consider the issue of direct political contributions by foreign nationals when it enacted the Foreign Agents Registration Act or its 1966 amendments. Furthermore, none of the other major acts of Congress dealing with political campaigns and elections—the Corrupt Practices Act, the Hatch Act and the Federal Election Campaign Act of 1971—has amended Federal law to prohibit direct contributions by foreign nationals.

Thus, the present statute permits political contributions from individuals who neither reside in the United States nor have the right to vote in elections within the United States. Investigations by the Select Committee have revealed that a number of political contributions—including loans to U.S. citizens—were in fact made by foreign nationals who were associated with or employed by firms doing business in the United States. Presumably, these contributors were motivated by a desire to support candidates whom they expected to create or maintain a favorable atmosphere for the business community or their specific economic interest. Other foreign nationals indicated to the committee that their contributions were motivated by a general interest in American Presidential politics and world leadership.

In addition to direct contributions by foreign nationals during 1972, hundreds of thousands of dollars, including illegal contributions from corporate funds, were laundered through foreign banks and foreign companies. These abuses illustrate that the present statute, which sanctions direct contributions by foreign nationals, undercuts other election laws such as the disclosure requirements and the prohibition on corporate contributions. Furthermore, since foreign banks generally are not subject to U.S. law and enforcement process, laundered funds are difficult to trace.

The proposed statute would prohibit political contributions by foreign nationals whether or not they have agents within the United States. An exception to the general prohibition should be made to permit contributions by resident immigrants who intend to reside in the United States on a permanent basis who have a legitimate interest in Presidential elections. In addition, because of the limited interest on the part of foreign nationals who reside in the United States dur-

<sup>32</sup> The original Foreign Agents Registration Act was enacted in 1938 "to identify agents of foreign principals who might engage in subversive acts or in spreading foreign propaganda, and to require them to make public record of the nature of their employment." *Viereck v. United States*, 318 U.S. 236, 241 (1943).

ing a substantial part of the year—even though they lack permanent residence status—in the affairs of this country, some attention should be given to permit some political contribution activity on the part of these persons such as by authorizing contributions in reduced amounts.

The proposed prohibition on contributions by foreign nationals is based on the belief that those who cannot vote in American elections should not be permitted to influence elections in this country by making contributions to political campaigns. The argument is bolstered by the notion that foreign nationals do not have a stake in our electoral process; their loyalties are to their own countries and their own governments. The prohibition, then, helps protect the integrity of our campaign financing system without depriving any citizen or permanent resident of the right to contribute to campaigns.<sup>33</sup> The recommended prohibition should be implemented by placing responsibility on the candidates or the candidates' political committees to refuse donations proffered by foreign nationals. Present disclosure and reporting laws require the name of the donor, his mailing address, occupation, and principal place of business on all contributions over \$10. Therefore, the responsibility to refuse prohibited foreign contributions would not impose an undue burden on candidates or their committees.

**9. The committee recommends that no Government official whose appointment required confirmation by the Senate or who was on the payroll of the Executive Office of the President be permitted to participate in the solicitation or receipt of campaign contributions during his or her period of service and for a period of 1 year thereafter.**

During the 1972 campaign there was a widespread transfer of key administration officials from the White House and from departments and agencies to high positions in the campaign effort. In certain cases, these officials or their assistants went to the very persons over whom they previously wielded regulatory or other power to solicit campaign contributions. Particularly in view of the likelihood that many of these officials would return to the Government, solicitation by them may well have had undesirable coercive aspects. While the entire practice of carving the campaign force out of the administration on a temporary basis seems highly questionable, the committee recommends as a minimum step that high administration officials who leave to enter the campaign be barred from engaging in fundraising activities for a period of 1 year.

**10. The committee recommends that stringent limitations be imposed on the right of organizations to contribute to Presidential campaigns.**

One of the major abuses investigated by the Select Committee was the apparent attempt on the part of the several large dairy cooperatives to utilize their contribution potential of millions of dollars to influence

<sup>33</sup> During debate of S. 3044, it stated that, according to the State Department, 1,750,000 U.S. citizens are living abroad, exclusive of military and tourists. When an amendment to S. 3044 was offered to prohibit political contributions in the form of written instruments on a foreign bank, concern was expressed that American citizens living abroad would be duly inconvenienced. Further study appears warranted to explore the feasibility of prohibiting contributions by a U.S. citizen living abroad.

administration decisions. The ability of associations and organizations—whether they be composed of individuals, corporations, or unions—to band together and pool their contributions has given rise to enormous contributions. At the present time, a number of organizations have hundreds of thousands, or even millions, of dollars ready to be mobilized for a particular candidate or cause.

In a proposed system which limits the size of individual contributions and campaign expenditures it would be intolerable if organizations could continue to offer and contribute huge amounts of money. Whether it is desirable or, in view of the first amendment right to free speech and assembly, constitutional to ban outright the ability of individuals or entities to pool their resources is open to question. In any case, a limit must be placed on the right of organizations to make contributions. In the context of a Presidential race it appears that a limit of \$6,000—the figure contained in S. 3044—would tend to avoid the problem of undue influence by organizations while providing them an opportunity to participate in the political process.

In the event that organizations are permitted to make contributions to Presidential campaigns, certain procedural reforms should be enacted for union or corporate committees covered by sections 610 and 611 of title 18: First, that individual members of any organization which solicits contributions be permitted to designate the ultimate recipient of the contribution. Second, that organization officials who are given the power to allocate funds not designated by the members be democratically elected. Third, that the organization make periodic audited financial reports to the persons participating. Fourth, that members of organizations be given the option to contribute directly to the candidate of their choice without the knowledge of their superiors.

**11. The committee recommends that violations of the major provisions of the campaign financing law, such as participating in a corporate or union contribution or a contribution in excess of the statutory limit, and making a foreign contribution, shall constitute a felony.**

At the present time, violation of the law prohibiting contributions by corporations or labor unions is punishable by up to 1 year in prison or 2 years if the violation was “willful” (section 610 of title 18). On the other hand, contributions by a foreign national in violation of section 613 of title 18 or by a Government contractor in violation of section 611 of title 18 are punishable up to 5 years imprisonment and there is no provision for a nonwillful misdemeanor charge.

The committee believes that, in view of the seriousness that attaches to any contribution from sources prohibited by law, violation of all of the above provisions relating to corporate or union contribution should be treated the same as sections 611 and 612. It further believes that the provision which creates a “nonwillful” violation of section 610 should be removed and that conduct that might be covered by such a provision, for example, the negligent participation in a corporate contribution by the comptroller of a company, should be treated as a civil violation.

In the past year the availability of the misdemeanor provision in section 610 has permitted the Special Prosecutor to encourage the



voluntary disclosure of illegal corporate contributions. Public testimony from, and private interviews of, corporate executives reflected both an ignorance of the provisions of section 610 and the belief that violation of this provision was merely a "technical" violation of law.<sup>34</sup> In view of recent events, including the committee's public hearings, it appears proper to consider the giving of an illegal corporate contribution for what it is, namely, the illegal diversion of money held in trust, and to treat it with the seriousness it deserves—as a felony.

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<sup>34</sup> Although a number of corporate officials indicated a lack of awareness of the provisions of 18 U.S.C. 610, it appears that there have been 17 prosecutions under the statute between May of 1968 and December of 1971 alone. Based on information supplied to the committee by the Department of Justice, it appears that there were convictions in 11 of the cases. With the exception of the prosecution of William (Tony) Boyle where there was a jail sentence imposed of 5 years and another case involving the Pipe Fitters Local Union No. 562, St. Louis, Mo., where a one-year prison term was reversed by the Supreme Court, all convictions resulted in fines which ranged from \$2,500 to \$50,000.



## CHAPTER 5

### Milk Fund

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#### INTRODUCTION

National attention was first focused on the Nation's leading dairy cooperatives in 1971 when it was discovered that the administration's decision to raise the level of Federal milk price support subsidies for dairy farmers was followed almost immediately by some contributions which, within 6 months, amounted to more than \$300,000 to Republican committees, including about a quarter of a million dollars to President Nixon's reelection committees established especially for the "milk money." When the Select Committee undertook its investigation of the alleged *quid pro quo*, it soon found that price supports were just one item on the dairymen agenda. In fact, the milk producers, representing one of the wealthiest political funds in America and one of the largest groups of contributors to the 1972 campaign, had actively sought favorable action from the Nixon administration throughout its first term on a number of matters of great financial importance to dairy farmers at the same time that they were pledging hundreds of thousands, and even millions, of dollars to President Nixon's reelection campaign—with the knowledge of the President himself and with the encouragement of top Presidential aides and fundraisers.

The milk price support increase in 1971 granted by the President was worth at least tens of millions of dollars to the milk producers, and they spared no effort in seeking that favorable action. In 1970, the co-op leaders had pledged \$2 million "or more" to the President's campaign and, when called upon to reaffirm that pledge before the President's favorable decision was announced the following March, the dairymen readily obliged.

Those involved in the March 1971 price support matter—the President, his key aides, including Haldeman, Ehrlichman, and Colson, and dairy representatives—each deny that there was a *quid pro quo* of dairy contributions in exchange for the Presidential increase. The President has asserted that, instead, his action was influenced primarily by Democratic congressional pressure (generated by the dairymen) for an increase coupled with the President's fear of losing dairymen support in his 1972 reelection bid if he opposed them.

Much of what the President says is supported by the surrounding events. The dairy lobby had successfully gathered the support of about a quarter of each House in support of bills to raise the support level.

But the President's position does not take into account other key facts uncovered by the Select Committee in the course of its investigation which shed light on the type of potential "support" the dairymen represented. To be sure, there were economic arguments advanced

to support an increase. However, all of the President's agricultural economic experts opposed an increase on the merits. The crux of the committee's investigation was, thus, not whether it was the correct decision but whether the President made that decision for the "wrong" reason.

The President was well aware that at the time he considered the price support matter the milk producers had pledged \$2 million to his campaign—but had not delivered one penny toward that pledge. In March 1971, at least some dairy leaders had considered boycotting further Republican fundraising efforts because of the administration's position on price supports. At the same time, the President's reelection campaign had just been organized and was seeking "early money" toward a campaign goal of \$40 million. What's more, meeting that goal was considered very important, because the President faced a tough, even uphill fight for reelection—in one leading Presidential poll at the time, the President trailed the Democratic front-runner, Senator Muskie, by a full 5 percentage points.

With that as the setting, the President on March 23, 1971, met first with dairy leaders in the Cabinet Room and then later that day with his top aides in the Oval Office where he announced his decision which reversed the decision of the administration announced 11 days earlier. At the conclusion of the second meeting, a Presidential aide was instructed to "alert" the dairymen of the decision before its public announcement.

The message to the dairymen carried an additional twist. The committee has uncovered evidence to show that on the 23d the co-op leaders were informed that an increase was a good possibility but not certain. The second dimension to the message concerned dairy contributions: A key dairy leader (Harold Nelson) was expected to reaffirm the \$2 million pledge at a late night meeting (arranged by Ehrlichman) prior to the public announcement with dairy lawyer (and Nixon associate) Murray Chotiner, and Herbert Kalmbach, the President's personal attorney and chief fundraiser. During the 24 hours prior to the meeting, Nelson engaged in last-minute efforts to seek substantial commitments from his fellow dairy leaders, and, at the pre-arranged meeting, Kalmbach was informed of the reaffirmation "in view of" the price support increase which had been set for the next day. The increase was announced as scheduled, and in the weeks and months that followed the "milk money" flowed to the President's campaign."

Other matters of importance to the milk producers included dairy import quotas, Government cheese purchase and school milk programs, and the approach taken by the Antitrust Division of the Justice Department toward certain practices of the dairy co-ops. At least some of these matters were discussed time and again by dairy leaders and Presidential aides at the very same time that large Presidential contributions were also mentioned.

The tone of milk producer-Nixon administration contacts is exemplified by other events in the President's first term: In mid-1969, the milk producers gave \$100,000 cash to Kalmbach (later paid from corporate funds) and promised \$150,000 more that year directly in exchange for the opportunity to meet with White House aides to press their case for higher price supports and meetings with the President

himself. In 1970, in the course of their subsequent dealings with Colson on dairy problems, the milk producers stepped up their commitments to at least \$2 million, and Colson is reported to have replied: "This is a \$2 million package." Colson subsequently informed the President of the pledge. Several months later, a dairy lawyer (and friend of the President) in a letter to the President referred to arrangements underway with Kalmbach for the \$2 million contribution and then went on to ask the President for favorable action on a pending dairy import quota matter. In 1972, in the course of efforts by Kalmbach to raise another \$750,000 from the milk producers, a top dairy leader is alleged to have overtly offered the money in exchange for White House help in terminating an antitrust suit that had been filed by the Justice Department against his co-op, but the offer was rejected and the lawsuit has proceeded. In all, the milk producers provided a total of some \$632,500 to the President's reelection effort, including \$245,000 furnished to the campaign just prior to the election.

Whatever the legal significance of the circumstances of the 1971 price support increase and these and other matters, the milk producers perceived some Nixon officials as having a dual role of both policymaker and fundraiser.

Whether or not these two roles were directly tied, they appeared to the dairymen to be linked, and this had a significant impact on the approach taken by them. Nelson said they gave the first \$100,000 in 1969 because "it appeared we were not going to get anyplace if we did not." And when called upon in March 1971 to reaffirm the \$2 million pledge, Nelson explained that he felt he had no choice:

We knew, and [Kalmbach] knew that we were interested in matters other than just the price support decision. We weren't in any position to say, if you don't do this we're not going to make the contribution.

\* \* \* \* \*

I think they would have been fully justified in saying, "we don't want any more conversations with you about anything."

These matters are elaborated on in detail in the Milk Fund report that follows. At the end of the report, a list of key persons and organizations, a chronology of the events detailed in the report and selected documents are presented as appendices A, B, and C, respectively. The report represents the culmination of a 9-month investigation begun in September 1973 and conducted jointly by the committee majority and minority staff and involved interviews with over a hundred persons who were present or former officials of the White House and the Executive Office of the President, the Department of Agriculture, the Justice Department, the Treasury Department, the Internal Revenue Service, and the leading milk producer cooperatives. Executive session testimony, totaling several thousand pages, was taken from over 30 witnesses most of which is printed, together with accompanying exhibits, affidavits, and additional documents, in volumes 14 through 17 of the committee's hearings.\*

\*Included in the volumes are materials on milk producer contributions to the Presidential campaigns of Senator Humphrey and Congressman Mills, treated elsewhere in the committee's report.

One key element—White House materials—has been consistently denied by the President to the committee thereby limiting the completeness of the committee's investigation. The committee made repeated requests to the White House for tapes and documents, and finally subpoenaed the President for them. Even though the President did not assert executive privilege as to some of these materials (which, in fact, had been handed over to private litigants in a lawsuit), the White House withheld everything from the committee. What's more, although the White House published its own account of the meeting with the President in which he raised price supports, the President asserted executive privilege preventing several of his aides present at that meeting, including the Secretary of Agriculture, from testifying about the discussions with the President.

Some, but by no means all, of these materials sought by the committee months ago was recently provided to the Judiciary Committee of the House of Representatives considering impeachment of the President. Although these materials were unavailable to the Select Committee at the time this report was prepared, they have been publicly released by the House committee and the principal additional materials are included in appendix D to this report.

The committee's milk fund investigation was conducted in such a way so as to respect the rights of potential defendants. In fact, the committee postponed its hearings on the milk fund at the request of the U.S. attorney for the Southern District of New York because of the pendency of the Vesco trial. Moreover, at the direct request of the Special Prosecutor, the committee withdrew its application granted by the court for use immunity for a key witness, Jake Jacobsen, involved in aspects of the milk fund. In addition, Charles Colson was not available to the committee sufficiently in advance of the preparation of its report to permit his interrogation by the committee.

Nonetheless, the committee believes the Milk Fund report is a comprehensive presentation of the presently available evidence, much of which was first uncovered by the committee, concerning the relationship between the leading milk producer cooperatives and the President in his 1972 reelection campaign.

## I. BACKGROUND—THE THREE LEADING DAIRY CO-OPERATIVES AND THEIR POLITICAL ARMS

Farmer cooperatives are not a new phenomenon. For many years farmers, including dairy farmers, have been banding together in cooperatives for the purpose of marketing their products for the mutual benefit of their members. In the late 1960's, however, the growth of dairy farmer cooperatives took a dramatic turn. Under the leadership of a few individuals, numerous cooperatives were merged into three large dairy co-ops, combining over 60,000 dairy farmers and covering essentially contiguous areas in the Southeast, Southwest, and Midwest. Together the three co-ops account for about 25 percent of all milk produced in this country.

One lawyer for the dairy co-ops testified before the Select Committee that their intention was to expand all the way up the Mississippi Valley to the Canadian border.<sup>1</sup> One key dairy leader has even stated

<sup>1</sup> Semer, 16 *Hearings* 7193. Throughout this Report, reference will be made whenever possible, to specific pages of the testimony, taken by the Committee in executive sessions, relating to the milk investigation. The transcripts of the testimony are printed in volumes 14 to 17 of the Committee's hearings.

that he believed all dairy farmers in the country should belong to one cooperative.<sup>2</sup>

This emergence of the large, multi-State dairy co-op was also marked by another event—the creation by each of the three co-ops of a political arm consisting of thousands of farmer members, each contributing up to nearly \$100 annually, for a total political chest of hundreds of thousands, and even millions, of dollars each year. These huge sums of money were placed at the disposal of one or two leaders of each co-op. One of these leaders testified that he viewed the contributions to be made by these political arms as giving the dairy co-ops “political power” and, at the very least, access to our governmental leaders, including the President.<sup>3</sup>

The formation, development, and activities of the three co-ops and their political arms were, in many instances, coordinated. Before turning to their involvement, both joint and separate, in the 1972 Presidential campaign, a brief description of the three co-ops, Associated Milk Producers, Inc., Dairymen, Inc., and Mid-America Dairyman, Inc., their political arms and principal officers is set forth below.

#### A. ASSOCIATED MILK PRODUCERS, INC.

The largest and, in many ways, most politically active dairy co-op is Associated Milk Producers, Inc., known by its acronym “AMPI.” Its political action arm, until April 7, 1972, was Trust for Agricultural Political Education, or TAPE. TAPE was replaced by CTAPE.

##### 1. AMPI

AMPI consists of approximately 40,000 members in the Southwest and central and upper Midwestern States. It was formed in late 1969, from the merger of Milk Producers, Inc. (MPI), a co-op of farmers primarily in the Southwest, and a number of other co-ops. It is headquartered in San Antonio, Tex.

AMPI is governed by a board of directors consisting of approximately 50 directors who are elected from the various geographic divisions and regions of the co-op. However, full management authority is vested in the general manager, who is the chief executive officer with authority, among other matters, to hire and fire all corporate employees, attorneys, and consultants.

John Butterbrodt, a Wisconsin dairy farmer, has been the only president of the board. The leaders of MPI were primarily responsible for the formation of AMPI (and, indeed, the other two major co-ops)<sup>4</sup> and became its principal officers. Harold S. Nelson, a lawyer and the general manager of MPI, became general manager of AMPI. David L. Parr, division manager for the Arkansas division of MPI, remained in Little Rock under the new organization, but became special counsel to the general manager.

Nelson testified that Parr was involved in all phases of AMPI activities and that no one in the organization besides Parr and him had such a broad range of responsibilities.<sup>5</sup> In a very practical, as well as formal, sense, Nelson and Parr “ran” AMPI.

<sup>2</sup> Deposition of David Parr, October 30, 1972, p. 86. *United States v. Associated Milk Producers, Inc.* (Hereafter, *United States v. AMPI*).

<sup>3</sup> Parr, 15 *Hearings* 6786–87.

<sup>4</sup> Nelson, 15 *Hearings* 6504.

<sup>5</sup> Nelson, 15 *Hearings* 6504.

Nelson's principal lieutenants included Bob A. Lilly and Robert O. Isham. Lilly had been employed as a lobbyist by the Texas State Farm Bureau in the 1960's. One of his principal areas of responsibility for AMPI, under Nelson, was lobbying and other political activity<sup>6</sup> mostly at the State level but also on some important national matters, such as Federal milk price supports.<sup>7</sup> Isham, a Texas CPA, was the company's comptroller.

On January 12, 1972, a change of management took place, when the board replaced Nelson with Dr. George L. Mehren, a former Assistant Secretary of Agriculture in the Johnson administration and later an AMPI consultant. Parr and several other AMPI employees left AMPI shortly after the January 1972 change.

## 2. TAPE/CTAPE

The idea of a political fund for dairy farmers was new to the co-op leadership. Consequently, Nelson turned to others for advice and guidance. One lawyer Nelson retained was Jake Jacobsen, who had been in the Johnson White House and who has been a friend of John Connally for 25 years.<sup>8</sup> Jacobsen advised Nelson and AMPI and spoke at numerous meetings of the co-ops in 1969, 1970, and 1971 in an apparent effort to strengthen their organizations.<sup>9</sup>

In light of his political experience, it is not surprising that the milk producers, through Jacobsen, would have sought out Connally for his advice in connection with the formation of TAPE. Indeed, Connally testified that Jacobsen and Nelson had informed him shortly after his term as Texas Governor ended in 1969 that they wanted to form the fund, and he advised them that there appeared to be no legal impediments.<sup>10</sup>

In February 1969, TAPE was formed as a trust to collect moneys from its participant-donors—almost entirely dairy farmer members and AMPI employees—and make political contributions on behalf of State and Federal candidates for public office. Donations were made by checkoffs—both from cooperative payments to its members for the co-op's sale of their milk and from employee paychecks. The donations were limited by TAPE to just under \$100 per year in order to avoid the requirement to report publicly to the Clerk of the House of Representatives the identity of contributors of \$100 or more under the then-applicable Corrupt Practices Act of 1925.<sup>11</sup> The use of the technique of withholding, together with the amount withheld and the large number of donors, resulted in a steady flow of substantial amounts of money into the trust.

TAPE developed the "potential," as an AMPI lawyer emphasized to Republican fundraisers, of \$1 million each year.<sup>12</sup> The trust fund has exceeded its potential. In calendar year 1972, for example, it spent nearly \$1 million and still had nearly \$900,000 cash on hand at year's end.

<sup>6</sup> Parr, 15 *Hearings* 6756; Parr exhibit No. 1, 15 *Hearings* 6907.

<sup>7</sup> Nelson, 15 *Hearings* 6503.

<sup>8</sup> Connally, 14 *Hearings* 6052; Jacobsen, 15 *Hearings* 6381.

<sup>9</sup> Jacobsen, 15 *Hearings* 6435-36; Alagia, 16 *Hearings* 7062.

<sup>10</sup> Connally, 14 *Hearings* 6051-52.

<sup>11</sup> At first, the formula for donations by farmer members was  $\frac{1}{4}$  of 1 percent of the farmer's receipts from AMPI, up to \$99.96. The formula was slightly revised from time to time.

<sup>12</sup> Semer, 16 *Hearings* 7192.



Isham was named the trustee of TAPE. Although the TAPE trust agreement vested him with sole authority to expend TAPE funds, the enormous TAPE resources were at the almost complete control of one, or at most, two other individuals—Harold Nelson and, to a more limited extent, David Parr.<sup>13</sup> Nelson stated that in practical terms he made all policy decisions for TAPE.<sup>14</sup>

In 1972, with the advent of new AMPI management and with the effective date of the Federal Election Campaign Act of 1971, a new entity was created to involve more persons in the decisionmaking process for expending the political fund. The new organization, the Committee for Thorough Agricultural Political Education (CTAPE), was formed in March 1972 with Mehren as treasurer and Lilly as secretary, and by the end of that year, TAPE had transferred to CTAPE substantially all its funds pursuant to authorizations solicited from TAPE donors. From the effective date of the new law (April 7, 1972) until the end of 1972, CTAPE was one of the wealthiest political funds of its kind in the country.<sup>15</sup>

### B. DAIRYMEN, INC.

The smallest of the three co-ops, with a membership of approximately 10,000,<sup>16</sup> is Dairymen, Inc., or DI, which was formed in 1968. Its formation and that of its political arm, Trust for Special Political Agricultural Community Education (SPACE), were essentially contemporaneous with those of AMPI and TAPE.

#### 1. DI

DI is a corporation based in Louisville, Ky., and its members consist of dairy farmers in the Southeastern portion of the United States. Its organizational structure is not dissimilar from that of AMPI; in practice, however, control of its policies do not appear to have resided in one person to the same degree as was the case for AMPI.

John Moser was elected president of the DI board of directors. Paul Alagia, a Louisville lawyer, served as its executive director from its beginning until March 1971, when he returned to his law practice.<sup>17</sup> At that time, he was replaced by Ben F. Morgan, Jr., who currently serves in that position.

One DI employee with responsibility in the area of legislation and political matters is Joseph Westwater, currently vice president for special projects. Westwater joined DI in 1969 but did not become involved in SPACE activities until after Morgan replaced Alagia.

When Parr left AMPI in February 1972, he soon found employment with another of the three co-ops—DI. Although, as is noted later in this report, Parr did attend at least one meeting thereafter in which contributions to the President's reelection campaign were discussed, he testified he has not generally been involved at DI in matters relating to political contributions.<sup>18</sup>

<sup>13</sup> Lilly testified that Nelson and Parr made approximately 80 to 90 percent of all TAPE contribution decisions. Lilly, 14 *Hearings* 5912. Nelson admitted that all TAPE contributions were made either pursuant to his express direction or based upon his previously announced policies or preferences. Nelson, 15 *Hearings* 6505.

<sup>14</sup> Nelson, 15 *Hearings* 6505.

<sup>15</sup> According to reports filed with the GAO, CTAPE was among the top three funds in receipts, expenditures, and cash on hand at the end of the year. See Congressional Quarterly p. 568 (March 17, 1973).

<sup>16</sup> Parr, 15 *Hearings* 6786.

<sup>17</sup> Alagia, 16 *Hearings* 7059–60.

<sup>18</sup> Parr, 15 *Hearings* 6900; see Section VII.A.1.

## 2. SPACE

SPACE was formed in March 1969, at essentially the same time as the formation of TAPE.<sup>19</sup> Since Nelson consulted with the DI leadership on the formation of SPACE, not surprisingly it was organized in virtually the same way as TAPE: The co-op's comptroller (Jim Mueller) became the sole trustee for the trust funds; funds were generated from regular checkoffs from farmer checks; checkoffs were limited to a level just below \$100; and practical control of the funds rested with the DI leadership.

Although the SPACE membership was considerably smaller than TAPE, its fund has been substantial. In 1972, for example, SPACE receipts and expenditures each totaled nearly \$300,000.

## C. MID-AMERICA DAIRYMEN, INC.

Mid-America Dairymen, Inc. (Mid-Am) is headquartered in Springfield, Mo., covering portions of the Midwest.

## 1. MID-AM

Mid-Am was formed in 1968 along the same lines as DI and, later, AMPI. It has a membership of approximately 20,000.

William Powell was elected president of the Mid-Am board. As in the case of AMPI and DI, day-to-day control of the co-op rested in top management. Its principal officer appears to have been Gary E. Hanman.<sup>20</sup> Hanman has been with Mid-Am since its formation and has held the position of senior vice president for the past several years.

## 2. ADEPT

With advice and encouragement from AMPI and DI, Mid-Am formed its own political fund in the middle of 1970. Hanman received advice from Nelson, Parr, Jacobsen, and another AMPI attorney, W. DeVier Pierson.<sup>21</sup> The result was a trust patterned along the same lines as were TAPE and SPACE, called the Agricultural and Dairy Educational Political Trust (ADEPT).<sup>22</sup> In July 1970, shortly after ADEPT's inception, TAPE loaned the fund \$8,500 to enable it to begin its contribution activity.<sup>23</sup>

William A. Delano, the Mid-Am comptroller, was the ADEPT trustee. However, Hanman apparently played substantially the same role for ADEPT as Nelson did for TAPE: Hanman noted that Delano followed the recommendations of an ADEPT advisory committee which, in turn, apparently followed Hanman's recommendations. In fact, Hanman could not name anyone other than himself with significant control of ADEPT's activities.<sup>24</sup>

Although ADEPT had a larger membership than SPACE, member donations were smaller, so that each trust generated approximately the same level of funds. In 1972, ADEPT, like SPACE, collected and spent approximately \$300,000.

<sup>19</sup> Alagia, 16 *Hearings* 7060.

<sup>20</sup> Harrison, 14 *Hearings* 6273.

<sup>21</sup> Hanman, 14 *Hearings* 5863.

<sup>22</sup> Hanman, 14 *Hearings* 5864.

<sup>23</sup> *Ibid.*

<sup>24</sup> Hanman, 14 *Hearings* 5862.

## II. \$100,000 CASH CONTRIBUTION TO KALMBACH IN 1969—AMPI'S OBJECTIVES

By the time the dairy co-op movement coalesced in 1969, it found itself faced with a new Republican administration. Any administration can have a tremendous impact on the welfare and livelihood of dairy farmers—through its decision to set milk price support subsidies, import controls of dairy products, purchases of cheese and other dairy products, and other Federal programs. The leaders of AMPI felt it was imperative for them, and the dairy industry as a whole, to meet with, and win friends in, the new administration.

This presented a problem. Most of the AMPI leaders were Democrats, and the dairy co-ops had given extensive financial and other support of over \$150,000 to Vice President Humphrey in his 1968 campaign.<sup>25</sup> Parr testified: "We didn't know anybody in Nixon's administration . . . We didn't have any rapport with the Nixon administration."<sup>26</sup>

Nelson indicated what proved to be at the heart of their problem. Although, in a civil deposition, Nelson stated that he did not recall ever having any great difficulty in gaining access to elected officials,<sup>27</sup> in his testimony before the Select Committee on December 18, 1973, Nelson was asked if this was true for the Nixon administration in 1969:

Mr. WEITZ. Would you care to say that that did not apply to the administration in 1969?

Mr. NELSON. That is right. It did not apply.

Mr. WEITZ. It did not apply?

Mr. NELSON. It did not apply.<sup>28</sup>

The first step to gain access to the new administration and achieve certain specific co-op goals was apparently a \$100,000 cash contribution delivered to Herbert Kalmbach, the President's personal lawyer and chief fundraiser. This matter, including the method in which the contribution was ultimately generated from AMPI corporate funds through an elaborate and expensive laundering scheme, is discussed in the following sections.

### A. AMPI CONTACTS WITH ADMINISTRATION OFFICIALS AND KALMBACH PRIOR TO THE CONTRIBUTION

#### 1. JOHN MITCHELL, JACK GLEASON AND REFERRAL TO HERBERT KALMBACH

Nelson turned to Jacobsen for an entree to the new administration. At that time, Jacobsen was a member of two law firms, Jacobsen and Long in Austin, Tex. (which was already on retainer to MPI for \$2,500 per month), and Semer and Jacobsen<sup>29</sup> in Washington. Jacobsen reported to Nelson that his Washington partner, Milton Semer, had previously had contact with John Mitchell and might be able to provide assistance.

<sup>25</sup> See Report of Wright, Lindsey and Jennings to Board of Directors of Associated Milk Producers, Inc., March 13, 1974 (hereafter "Wright Report"). The Report was commissioned in 1973 by the AMPI Board, after AMPI came under investigation by Watergate investigators, and was furnished to the Board on March 13, 1974.

<sup>26</sup> Parr, 15 *Hearings* 6758-59.

<sup>27</sup> See deposition of Harold S. Nelson, *Nader v. Butz*, at 4, February 7, 1973.

<sup>28</sup> Nelson, 15 *Hearings* 6523-24.

<sup>29</sup> The firm later became Semer, White, and Jacobsen.

On or about March 21, 1969, Parr and probably Nelson met with Jacobsen and Semer in the Washington office to discuss the problem. At about that time, the Semer and Jacobsen firm was also placed on a \$2,500 per month retainer to MPI.

There is a dispute in the testimony whether or not Semer contacted John Mitchell in 1969 for AMPI and whether Mitchell then referred Semer to Kalmbach. Both Semer<sup>30</sup> and Mitchell<sup>31</sup> have advised the committee that they recall no such contact. However, several witnesses state that Semer had said at the time that he had contacted, or intended to contact, Mitchell for the milk producers in 1969. Kalmbach said that Semer had told him that he had been referred by Mitchell, and, following the first meeting, Kalmbach called Mitchell to verify Semer's account.<sup>32</sup> In addition, Nelson testified that he learned from Jacobsen that Semer had contacted Mitchell who referred him to Kalmbach.<sup>33</sup> Jacobsen, too, in his testimony in an earlier deposition in a civil suit, had testified that Semer told him that he had been referred to Kalmbach by Mitchell. After conferring with Semer recently, however, Jacobsen, in testimony before the Select Committee on December 14, 1973, stated that he does not believe that Semer told him that he had been referred by Mitchell.<sup>34</sup>

Semer has conceded to the committee that at his first meeting with the AMPI representatives in March 1969 (and in his first meeting, described below, in April, with Kalmbach), he explained his previous contacts with Mitchell and Maurice Stans in 1968 and earlier,<sup>35</sup> but testified that he does not think he mentioned going to Mitchell to establish contact with the administration for AMPI. Instead, he indicated that he was going to contact Jack Gleason, who was then an assistant to Stans at the Commerce Department,<sup>36</sup> and who became a White House staff assistant to Harry Dent later in 1969.

Whatever Mitchell's involvement in this effort, it is undisputed that Semer did contact Gleason on or about March 25, 1969. Semer told Gleason of his client's dilemma and informed him of AMPI's political fund. According to Semer, Gleason expressed great interest at that meeting (and in contacts with him in the subsequent months) in the fund and its "potential" and referred him to Kalmbach.<sup>37</sup> As discussed below, Kalmbach learned of Semer and a possible \$100,000 contribution apparently on the same day Semer spoke to Gleason, March 25, 1969. In an interview with the Select Committee staff, Gleason described his role as one of "massaging fat cats" and, while he does not remember meeting with Semer in 1969 about this matter, he said he would have referred all potential Presidential contributors to Kalmbach.

Semer denied having discussed a specific contribution with Gleason during their contacts in early 1969. However, in view of Gleason's

<sup>30</sup> Semer, 16 *Hearings* 7189. Semer gave his account of his contacts with Kalmbach, Gleason and others to the Select Committee in November, 1973 and again on February 5, 1974.

<sup>31</sup> Mitchell Interview, January 14, 1974.

<sup>32</sup> Kalmbach, 17 *Hearings* 7578, 7582.

<sup>33</sup> Nelson, 15 *Hearings* 6511.

<sup>34</sup> Jacobsen, 15 *Hearings* 6386-87.

<sup>35</sup> Semer, while General Counsel for the Department of Housing and Urban Development from 1961 to 1965, knew Mitchell who was a member of an advisory committee to the General Counsel (Semer, 16 *Hearings* 7189). Semer also had contacted Mitchell, Maurice Stans, and an assistant to Stans, Jack Gleason, in 1968 in connection with arranging for a contribution by another client to the 1968 Nixon campaign.

<sup>36</sup> Semer, 16 *Hearings* 7190.

<sup>37</sup> Semer, 16 *Hearings* 7190-91.

interest in AMPI's "potential," and his sending Semer to Kalmbach, it seems that Gleason at the very least believed that the efforts of AMPI to gain access to the Republican administration would involve a contribution. That is exactly what happened as a result of the subsequent contacts between Semer and Kalmbach.

## 2. CONTACTS WITH KALMBACH—\$100,000 IN CASH

Semer testified that he found Gleason's referral of him to Kalmbach understandable; he explained that in previous administrations there had often been lawyers outside the Government who served in advisory capacities to the President. Semer believed that Kalmbach was such a Presidential advisor who could provide him with an understanding of the organizational structure of the Nixon White House.<sup>38</sup>

Whatever Semer's perception, Kalmbach at that time was serving in an important financial role for the White House in 1969. Kalmbach testified that on or about January 14, 1969, Stans asked Kalmbach to serve as trustee for the surplus funds from the 1968 Presidential campaign.<sup>39</sup> Kalmbach agreed. He understood that he was to act under the direction of Haldeman, to whom he reported on his activities in connection with the fund. Haldeman did not dispute that Kalmbach reported to him, although he noted that Kalmbach received instructions from others, too, with respect to the fund.<sup>40</sup>

Semer met with Kalmbach in Washington in early April and again in early May.<sup>41</sup> Semer testified that in each instance he described his client's "potential" for making political contributions to both parties and at all levels, including the President, although he claims there was no discussion at that time of a specific contribution to the President.<sup>42</sup> He testified that Kalmbach was always interested in that "potential"—which Semer described as \$1 million per year—and that the "technique of political contributions was constantly discussed right from the start."<sup>43</sup>

Other evidence gathered by the Select Committee indicates, however, that at least at one of these meetings (and perhaps both) a specific contribution was in fact discussed. Semer testified that he regularly reported the results of his Kalmbach meetings to the client and Jacobsen,<sup>44</sup> and both Nelson and Jacobsen testified that in those reports they were advised that Kalmbach requested a contribution of \$100,000 in cash.

According to Nelson, Semer reported back from Kalmbach that: "[I]f we want to go forward with the relationship, that we should deliver \$100,000 in cash."<sup>45</sup> Jacobsen recalled that he was told by Semer that, at the second meeting, Kalmbach suggested a cash contribution of \$100,000.<sup>46</sup>

Probably the most persuasive evidence that a specific contribution was discussed at the outset was provided to the Select Committee by

<sup>38</sup> Semer, 16 *Hearings* 7191.

<sup>39</sup> Kalmbach, 17 *Hearings* 7577-78. Kalmbach administered the fund until 1972 when he transferred the proceeds to Hugh Sloan for the President's re-election campaign. A review of Kalmbach's administration of this fund is provided in another section of the Select Committee's report. See Chapter IV.

<sup>40</sup> Haldeman, 16 *Hearings* 7158.

<sup>41</sup> Semer, 16 *Hearings* 7191. According to Semer's logs, they met on April 3, 1969 and May 7, 1969.

<sup>42</sup> Semer, 16 *Hearings* 7191-92.

<sup>43</sup> Semer, 16 *Hearings* 7192, 7198.

<sup>44</sup> Semer, 16 *Hearings* 7194.

<sup>45</sup> Nelson, 15 *Hearings* 6514.

<sup>46</sup> Jacobsen, 15 *Hearings* 6387-88.

Kalmbach on March 22, 1974, following his guilty plea to two Federal violations. Kalmbach testified that Semer explained that they had supported Senator Humphrey's candidacy in 1968 and now "they were without friends in the administration and this was the reason they wanted to make a contribution."<sup>47</sup>

Kalmbach testified that at either the first meeting in April or sometime later, Semer indicated the contribution would be \$100,000. According to Kalmbach, Semer told him that, in fact, their goal was a total of \$250,000 by the end of the year.<sup>48</sup>

The account that the \$100,000 was discussed "right from the start" is corroborated by Kalmbach's contemporaneous entries in his logs.<sup>49</sup> On March 25, 1969—the day Semer first contacted Gleason for the milk producers—there is the following entry: "M. H. Stans. Seamer [sic] \$100,000."<sup>50</sup>

On April 2, 1969, the day before Semer met with him, Kalmbach wrote in his logs: "Milton Seamer [sic]—Atty in Wash., D.C. \$100,000 Milk Producers Assn."<sup>51</sup>

The suggestion that an additional \$150,000 would be contributed by the end of the year for a total of \$250,000 is also supported by Kalmbach's log entries. In June and July, 1969, there are several references, in connection with Semer, to "100-250" including the following entry for the week of June 30: "MHS Semer 100-250 12/31."<sup>52</sup>

After a number of telephone calls with Kalmbach in June and July, Semer, on July 10, 1969, flew to California and met Kalmbach in his Newport Beach office. Semer acknowledged that in the course of their telephone conversations and the July 10 meeting, he gained no further information on the White House organization and possible contacts for AMPI.<sup>53</sup>

The only matter on which progress was made was that of a contribution. On July 9, the day preceding his meeting with Kalmbach, Semer stopped at the Executive Inn Hotel in Dallas and met with Nelson, Parr and Jacobsen. Semer conceded that they discussed the fact that nothing had resulted from the previous contacts with Kalmbach and that there may have been a discussion of making a contribution.<sup>54</sup>

Parr was more direct; he testified that Semer related that Kalmbach had already asked for \$100,000 in cash and that at the July 9 meeting there was a discussion of obtaining and delivering the money.<sup>55</sup> In fact, there was some suggestion that all four of them would meet with Kalmbach.<sup>56</sup> However, it was decided that Semer would go alone, since, according to Semer, Kalmbach preferred dealing with just him and not a group.<sup>57</sup>

At the July 10 meeting, which essentially reviewed previously discussed matters, Kalmbach reiterated the administration's receptive-

<sup>47</sup> Kalmbach, 17 *Hearings* 7578.

<sup>48</sup> Kalmbach, 17 *Hearings* 7581.

<sup>49</sup> Kalmbach, who had not referred to such matters in civil depositions previously taken, testified before the Select Committee on March 22, 1974, that his memory had been refreshed by reviewing his contemporaneous notes from the 1969-1970 period, which he produced to the Committee and other investigating authorities. See Kalmbach, 17 *Hearings* 7588.

<sup>50</sup> Kalmbach affidavit, attachment A, 17 *Hearings* 7946.

<sup>51</sup> Kalmbach affidavit, attachment B, 17 *Hearings* 7947.

<sup>52</sup> Kalmbach affidavit, attachment E, 17 *Hearings* 7950.

<sup>53</sup> Semer, 16 *Hearings* 7194.

<sup>54</sup> Semer, 16 *Hearings* 7195-96.

<sup>55</sup> Parr, 15 *Hearings* 6761.

<sup>56</sup> Parr, 15 *Hearings* 6762; Semer, 16 *Hearings* 7195.

<sup>57</sup> Semer, 16 *Hearings* 7195.

ness to a contribution.<sup>58</sup> As to the question whether the contribution would be reported, Semer's and Kalmbach's recollections differ; Semer recalls a discussion of reporting requirements<sup>59</sup> while Kalmbach says there was none—not then and not in any of the conversations between the two.<sup>60</sup>

In any event, it must have become increasingly clear to Semer—if not on or before July 10, then shortly thereafter—that Kalmbach had no plans to report the cash contribution. Jacobsen and Nelson both testified that they were told Kalmbach did not want the contribution reported.<sup>61</sup> Semer himself testified that Kalmbach “on more than one occasion expressed a preference for cash,”<sup>62</sup> and that this so disturbed him that he called Kalmbach between July 10 and the delivery to ask if Kalmbach would accept the contribution in checks; again Kalmbach expressed a preference for cash.<sup>63</sup>

Kalmbach disputes the evidence that he requested that the contribution be in cash. On the contrary, he testified that Semer told him it would be made in cash.<sup>64</sup> However, Kalmbach admitted that no committees were yet in existence which could have him listed as receiving the contribution so as to avoid violating the prohibition in the Corrupt Practices Act against making a contribution in excess of \$5,000 to any one candidate or political committee.<sup>65</sup>

As discussed in chapter 4 of the committee's report on campaign financing, the Select Committee found repeated instances in which Kalmbach and other Presidential fundraisers received cash from contributors to keep their fundraising efforts secret. Furthermore, as explained in chapter 4, the 1968 surplus funds transferred to Kalmbach's control were in two forms—several checking accounts and cash in several safe deposit boxes. Kalmbach testified that Haldeman had made clear to him that he should maintain the original nature of the funds as much as possible—that is, try to maintain the original balance in the cash and the checking account. However, in 1969 Kalmbach was already disbursing substantial amounts from the cash fund.<sup>66</sup> Therefore, in order to follow Haldeman's instructions, Kalmbach would have had to seek cash to replenish the fund.

As explained below the AMPI contribution was added to that fund.

### 3. PURPOSE OF THE CONTRIBUTION—AMPI'S THREE “OBJECTIVES”

The Select Committee has obtained evidence that the purpose of the \$100,000 cash contribution was not merely to gain “access” to the Nixon White House, but also to lay the groundwork for favorable treatment in certain specified ways by the administration for AMPI and the dairy industry.

As noted above, the AMPI leadership understood that the contribution was being suggested by Kalmbach as a first step to making contact with the White House. Notwithstanding Semer's insistence that there was no direct connection between the contribution and

<sup>58</sup> Semer Exhibit 1, 16 *Hearings* 7220.

<sup>59</sup> Semer, 16 *Hearings* 7197.

<sup>60</sup> Kalmbach, 17 *Hearings* 7581.

<sup>61</sup> Jacobsen, 15 *Hearings* 6388–89; Nelson, 15 *Hearings* 6517.

<sup>62</sup> Semer, 16 *Hearings* 7197.

<sup>63</sup> Semer, 16 *Hearings* 7197–98.

<sup>64</sup> Kalmbach, 17 *Hearings* 7579.

<sup>65</sup> *Ibid.*

<sup>66</sup> *Ibid.*

"access," other evidence gathered by the Select Committee points the other way.

In his testimony, Kalmbach was quite explicit. Although denying he initiated the idea, Kalmbach did testify that he understood *before* the contribution was made that *in exchange for* the contribution, Semer and his clients would be granted the opportunity to meet with White House officials.<sup>67</sup>

According to Kalmbach, that was not all AMPI sought. He testified that AMPI, through Semer, made clear that in connection with the contributions of up to \$250,000 in 1969, it had three "objectives" in mind and that Semer stated these to him both before and at the time of the delivery of the \$100,000.

Kalmbach wrote in his logs on August 2, 1969, the day he received the \$100,000 from Semer:

- (a) 90 percent price supports for dairy farmers.
- (b) President to address gathering in Kansas City, Mo. (A meeting of dairy farmers' cooperatives organized by Milk Producers, Inc. (open date).)
- (c) Identification with the President—picturetaking, et cetera.<sup>68</sup>

At another point in his logs, for the week of June 10, 1969, also in connection with the milk producers, Kalmbach had written the following entry:

- 1. 90 percent of parity.
- 2. W.H. audience.
- 3. Farm speeches, visible identification.<sup>69</sup>

And at still a third place in his logs, on June 13, 1969, he wrote:<sup>70</sup> "MHS objectives, Semer—100-250."

Kalmbach, in turn, informed top White House officials of these matters. He testified that after the contribution was discussed but before its delivery, he reported to Haldeman the pending contribution and the three goals, and Haldeman authorized him to accept the contribution.<sup>71</sup> Kalmbach's logs indicate that he apparently discussed the contribution and the milk producer objectives with Stans, too.<sup>72</sup> After the receipt of the contribution, Kalmbach reported that fact and reiterated the three goals to Haldeman.<sup>73</sup> Haldeman stated to the Select Committee staff on January 31, 1974:

I don't recall that . . . That is something I may or may not have known at the time . . . Kalmbach reported some things to me, he generally kept me informed on what he was doing.<sup>74</sup>

Kalmbach's testimony that he reported the contribution and AMPI's interests to others in the White House and the administration, includ-

<sup>67</sup> Kalmbach, 17 *Hearings* 7584; Semer, 16 *Hearings* 7207. Semer, when questioned in executive session of the Select Committee, stated that he "would be very much surprised" if Kalmbach "a very sophisticated attorney" would conclude that the contribution was related to meeting with White House officials. *Ibid.*

<sup>68</sup> Kalmbach affidavit, attachment G, 17 *Hearings* 7952.

<sup>69</sup> Kalmbach affidavit, attachment C, 17 *Hearings* 7948. There are several additional abbreviated words after item No. 1 ending with "84%," apparently referring to the then-existing milk price support parity level.

<sup>70</sup> Kalmbach affidavit, attachment D, 17 *Hearings* 7949.

<sup>71</sup> Kalmbach, 17 *Hearings* 7582.

<sup>72</sup> See Kalmbach affidavit, attachment D, 17 *Hearings* 7949.

<sup>73</sup> Kalmbach, 17 *Hearings* 7582.

<sup>74</sup> Haldeman, 16 *Hearings* 7155.



ing Ehrlichman, Peter Flanigan (who had some responsibility in the area of dairy matters), Gleason, and Dent, is corroborated by other evidence obtained by the Select Committee.<sup>75</sup> Kalmbach's logs reflect notes of conversations with Ehrlichman and Stans about the milk producers, their contribution and their objectives, and Ehrlichman told the committee staff on February 8, 1974 (even before Kalmbach testified on such matters) that Kalmbach did in fact tell him of his contact with Semer and of the contribution.<sup>76</sup>

With respect to the substance of his communications on this matter to White House officials, Kalmbach testified:

I never at any time indicated to Mr. Haldeman, as I remember it, that the *quid pro quo* for the receipt of this contribution would be the attainment of the three stated objectives.

Mr. SANDERS. Did Mr. Haldeman ever give you any understanding that their objectives would be met?

Mr. KALMBACH. No, he did not.

Mr. SANDERS. Did Mr. Ehrlichman ever give you any understanding in advance of the Semer delivery that the objectives would be met?

Mr. KALMBACH. No, other than Mr. Haldeman indicated to me it would be—that the objective of Mr. Semer meeting with various people within the White House would be met.

Mr. SANDERS. But not that their ultimate objectives would be.

Mr. KALMBACH. That is correct.

Mr. SANDERS. Did any White House official give you an understanding that their ultimate objectives would be met?

Mr. KALMBACH. No, sir.<sup>77</sup>

However, Kalmbach did say there was an understanding with Semer and White House officials that a benefit would accrue to the milk producers in exchange for the contribution:

[I]n return for that contribution it would be possible for me to arrange for several appointments with various people within the White House in order for Mr. Semer and the attorneys for the milk producers to meet with the White House officials to present a case on their behalf.<sup>78</sup>

Having reached an understanding, the milk producers next prepared to deliver the money.

## B. THE CONTRIBUTION: PREPARATION AND DELIVERY

The \$100,000 in cash was assembled by the milk producers in late July 1969. On August 1, Bob Lilly delivered it to Semer and the next day, August 2, Semer delivered it to Kalmbach. Under the direction of White House aides, Kalmbach used the money in part to fund the

<sup>75</sup> Kalmbach, 17 *Hearings* 7583.

<sup>76</sup> Ehrlichman, 16 *Hearings* 7373-74. Ehrlichman also said that Kalmbach informed him that Semer was seeking a *quid pro quo* and that Ehrlichman told Kalmbach to terminate the relationship. Ehrlichman, 16 *Hearings* 7374. Ehrlichman did not remember when this discussion occurred, although he believed it was in 1969. However, Kalmbach's testimony, together with other corroborative evidence, places the time of that discussion (and the question of a *quid pro quo*) in 1972. It will be treated at greater length in connection with Section VI dealing with the activities of the dairy co-ops in 1972.

<sup>77</sup> Kalmbach, 17 *Hearings* 7811-12.

<sup>78</sup> Kalmbach, 17 *Hearings* 7811.

undercover activities of Anthony Ulasewicz and the Democratic primary challenge to George Wallace in 1970.<sup>79</sup> As a result of the contribution, dairy co-op leaders were then introduced to certain White House officials.

At the time of the contribution, MPI and TAPE maintained sizable accounts at the Citizen's National Bank of Austin, of which Jacobsen was chairman of the board. In an affidavit submitted to the Select Committee,<sup>80</sup> Marvin Stetler, who was at that time president of the bank, affirmed that in late July 1969, Jacobsen informed him that \$100,000 in cash was to be withdrawn from the TAPE account and made available by a certain date, which proved to be August 1, 1969. Jacobsen told him that the authorization for the withdrawal was to be a debit memo and that Lilly was to receive the money.

Stetler states that he told Jacobsen that it would take several days to accumulate that much currency. As recalled by Lilly, Stetler told Lilly that he was assembling old bills.<sup>81</sup>

Bob Lilly provided the committee with the details of the transactions.<sup>82</sup> He says that on August 1, he went to Citizen's National Bank to receive the money. Stetler gave him the previously prepared debit memo, Lilly signed it and Stetler gave him the money. According to Lilly, Stetler first counted it; Stetler says Lilly began to count it but was in such a hurry that he merely raked the money into an empty case and left.

The debit memo Lilly signed reads as follows: "Receipt of \$100,000 cash acknowledged this 1st day of August, 1969 per instructions of Bob Isham."<sup>83</sup>

After receiving the money, Lilly went to Dallas, and, in Semer's room in the Executive Inn, delivered the money to him. Semer says he had not previously known the actual amount to be contributed and was surprised by the magnitude.<sup>84</sup> After Lilly left, Semer bought a new flight bag to replace the attaché case Lilly had used and placed the money in it.

On Saturday, August 2, 1969, Semer again flew to California and delivered the \$100,000 to Kalmbach in his Newport Beach office. Kalmbach counted the money and, on the following Monday, August 4, placed it in the safe deposit box in the Security Pacific National Bank, Newport Center Branch, which he had opened in July for some of the 1968 surplus funds.<sup>85</sup>

<sup>79</sup> Kalmbach, 17 *Hearings* 7580-81; depositions of Herbert W. Kalmbach, *Common Cause v. Finance Committee to Re-Elect the President*, pp. 72-73 (December 12, 1973) and pp. 4, 36-37 (December 13, 1973).

<sup>80</sup> 17 *Hearings* 7994-8000.

<sup>81</sup> Lilly, 14 *Hearings* 5918.

<sup>82</sup> Apparently, Lilly's first contact with milk fund investigators was with the Select Committee staff in October, 1973. A hearsay account of Lilly's role had previously been given to the committee by Joseph Rose, a former AMPI attorney in 1973, who testified before the committee in early October. Staff investigators had learned of Rose through another attorney then representing non-AMPI farmers.

Subsequently, in informal staff interviews and executive session testimony principally in October and November, Lilly provided an account—later corroborated—of a number of important matters uncovered by the staff investigation and discussed in this report, including the delivery of the \$100,000 and the corporate payback scheme of that money, secret efforts in 1971 to secure a price support increase, commitments of large contributions to the President's campaign, and, in 1972, additional contributions in part to honor the previous commitments and in part to gain favorable treatment in a Justice Department antitrust suit.

<sup>83</sup> Lilly Exhibit 1, 14 *Hearings* 5990. Based on an interview with Isham and the testimony of Jacobsen, 15 *Hearings* 6389, it appears that Nelson and Jacobsen acted without consulting Isham, the sole trustee for TAPE.

<sup>84</sup> Semer, 16 *Hearings* 7200, 7202-03.

<sup>85</sup> Kalmbach, 17 *Hearings* 7582-83.

## C. DISPOSITION OF THE CONTRIBUTION AND SUBSEQUENT AMPI-WHITE HOUSE CONTACTS IN 1969

### 1. DISPOSITION OF THE CONTRIBUTION

Neither Nelson nor Parr expressed to the Select Committee any knowledge of, or for that matter, interest in what was done with the \$100,000 contribution. Semer says that he felt certain that the money was going to congressional candidates in the 1970 election. Although before the delivery of the money, Semer and Kalmbach discussed the practice in prior administrations of "piggyback" contributions—contributions solicited by the White House for congressional candidates—there apparently was no discussion of the use of the contribution.<sup>86</sup> And it remains undisputed that no Republican congressional fundraising committee names were provided to Semer or anyone else connected with AMPI at the time of the delivery or anytime thereafter in 1969.

In fact, the money was, according to Kalmbach, commingled with the 1968 surplus funds, which eventually went to Sloan in 1972 for the President's reelection campaign.<sup>87</sup> Ehrlichman essentially confirmed this.<sup>88</sup> In the meantime, part of the money was expended for such unusual campaign purposes as the political investigative work of Anthony Ulasewicz, detailed elsewhere in the committee's report, and the support of the candidacy of Alabama Governor Brewer in a 1970 State primary against George Wallace.<sup>89</sup>

### 2. CONTACTS BETWEEN AMPI AND WHITE HOUSE OFFICIALS IN 1969 AFTER THE CONTRIBUTION

The contribution was made in connection with AMPI's three goals, including "access" to the White House. Whereas Semer had been in contact with Kalmbach for approximately 4 months before the contribution was made without apparent results, thereafter it only took several days to arrange the first of a series of AMPI-White House meetings. Kalmbach testified:

[I]t was clear in my mind that as a result of this contribution \* \* \* or further contributions by Mr. Semer and his clients, that meetings would be arranged for Mr. Semer and his clients to meet with certain people within the White House to put forth his case on behalf of his clients.<sup>90</sup>

In fact, in the same August 2 diary entry referring to the milk producers' objectives, Kalmbach also noted "Milt and clients to meet with Harry Dent and Jack Gleason."<sup>91</sup>

On August 19, 1969, Nelson, Parr, and Semer met with Harry Dent in his White House office. Semer testified that the purpose of the meeting was twofold: to have the AMPI leadership get acquainted with Dent and to invite the President to attend the annual meeting of the Associated Dairymen, an association of the three dairy co-ops (AMPI,

<sup>86</sup> Semer, 16 *Hearings* 7192.

<sup>87</sup> Kalmbach, 17 *Hearings* 7580.

<sup>88</sup> Ehrlichman, 16 *Hearings* 7378.

<sup>89</sup> Kalmbach, 17 *Hearings* 7580-81; Kalmbach Depositions, *supra*, *Common Cause v. Finance Committee to Re-Elect the President*.

<sup>90</sup> Kalmbach, 17 *Hearings* 7584.

<sup>91</sup> Kalmbach affidavit, attachment G, 17 *Hearings* 7952.

DI, and Mid-Am) of which Nelson was manager.<sup>92</sup> At the August 19 meeting, they presented a written memorandum to Dent elaborating on the invitation.<sup>93</sup> Parr testified that they felt that the attendance of the President at that annual meeting and at an AMPI convention would increase the stature of dairy leaders—particularly the then current leadership of Nelson and Parr.<sup>94</sup> In a staff interview, Dent stated that he had no recollection of the meeting and that if such a meeting occurred it would have been a routine “massage” session.<sup>95</sup>

Kalmbach testified that he talked to Semer three or four times after August and perhaps contacted the White House to arrange Semer's subsequent meetings with White House officials. Kalmbach testified: “I feel relatively certain that anyone who he met with, it was probably the result of my making calls to arrange such meetings.”<sup>96</sup>

Kalmbach said there was no prior understanding of any favorable action that would necessarily result from such contacts. However, he testified that the top administration officials were all made aware that Semer represented a contributor.<sup>97</sup>

No more money was delivered to Kalmbach by AMPI in 1969. Kalmbach testified that he thinks the remaining \$150,000 was not forthcoming because of the dairy people's dismay at not meeting with more White House officials. Kalmbach says Semer told him that the “response wasn't really what we had hoped for.”<sup>98</sup>

The following year, the milk producers stepped up their lobbying efforts—and communicated their intention to raise the level of contributions to “\$1 million, \$2 million, or even more.”<sup>99</sup>

#### D. CORPORATE FUNDING OF THE \$100,000 CONTRIBUTION

Sometime before the end of 1969, the milk producers instituted an elaborate scheme to conceal the \$100,000 contribution delivered to Kalmbach. The scheme, developed by top AMPI employees, involved funneling several hundred thousand dollars through a number of lawyers and consultants retained by AMPI and using the laundered money to replenish the TAPE account from which the \$100,000 was originally withdrawn. As a result, TAPE never reported the contribution, and Kalmbach and White House aides were free to use the contribution without any public disclosure of its source or public accounting for its disposition.

##### 1. NELSON-ISHAM-PIERSON MEETING

W. DeVier Pierson, a former White House aide in the Johnson administration and a Washington attorney whose firm was retained by AMPI beginning in early 1969, advised the AMPI leaders some-

<sup>92</sup> Semer, 16 *Hearings* 7207.

<sup>93</sup> Parr Exhibit 2, 15 *Hearings* 6907.

<sup>94</sup> Parr, 15 *Hearings* 6800; see Semer, 16 *Hearings* 7209.

<sup>95</sup> Semer also received increased attention regarding the dairy co-op from Gleason. Semer, 16 *Hearings* 7208; Semer Exhibits 2 and 3, 16 *Hearings* 7224, 7225.

<sup>96</sup> Kalmbach, 17 *Hearings* 7585.

<sup>97</sup> Kalmbach, 17 *Hearings* 7584–85. Kalmbach added that, in the case of at least Mitchell, Haldeman and Stans, they knew Semer's client had contributed that year. Kalmbach, 17 *Hearings* 7585. In a staff interview, Mitchell said that at some point Kalmbach told him that he was receiving contributions from “milk producers,” but he said that this information made no impression on him and he could not recall the date. As is indicated below, this represented only the beginning of what the Select Committee has found to be a continuing involvement through 1972 by Mitchell and Haldeman in solicitations of and contributions by the dairy trusts to the President's re-election campaign.

<sup>98</sup> Kalmbach, 17 *Hearings* 7585.

<sup>99</sup> Nelson, 15 *Hearings* 6536.

time in the fall of that year that TAPE was required to make public reports to the Clerk of the House of its contributions to candidates for Federal office. According to Pierson, the AMPI people informed him that he was "the only lawyer who has ever told us we have to report."<sup>1</sup>

AMPI officials realized in late 1969 that they had a problem; since the \$100,000 contribution exceeded the legal limitation of \$5,000 to any one candidate or committee, they could not report it in the form it was made without admitting a violation of the Corrupt Practices Act.<sup>2</sup> Kalmbach did not give them any committee names to permit lawful reporting, apparently because, according to Nelson and Jacobsen, he didn't want the contribution reported at all.<sup>3</sup> Since the contribution could not be reported lawfully or recovered from Kalmbach,<sup>4</sup> AMPI officials decided to engage in a coverup of the illegal contribution.

On December 8, 1969, Pierson flew to San Antonio and met that night with Nelson and Isham in Nelson's office. Pierson says that, although he was not told of the specifics, he understood from Nelson that TAPE had a reporting problem with respect to some contribution that either had already been made or was committed and was going to be made, presumably prior to the end of the year. It was decided that if it were possible to reimburse TAPE for the amount of the contribution before the end of the year, TAPE would not have to report the payment to Kalmbach. At the meeting, Nelson reportedly concluded:

I believe we ought to be able to call on friends of AMPI to help defray the obligation.<sup>5</sup>

Pierson says that Nelson then listed a number of attorneys and consultants, some of whom Pierson knew, as the friends who would be expected to participate.

According to notes taken by Isham at the meeting, the \$100,000 was to be recouped in amounts of \$10,000 each from the following eight attorneys and consultants then retained by AMPI: Pierson, Joe Long, Frank Masters, Stuart Russell, James Jones, Richard Maguire, Clifford Carter and Ted Van Dyk. In addition, four AMPI employees, Lilly, Parr, J. G. Anderson and Leo Suttle, were each to give \$5,000, for a total from all 12 of \$100,000.<sup>6</sup>

The 12 were to recoup the money from AMPI in the following manner: The eight outside conduits were each to bill AMPI \$20,000 to cover the \$10,000 payment plus their excess income taxes incurred because of the billing; the four employees were each to receive the \$5,000 in the form of an expense advance from AMPI. Thus, the scheme would have cost AMPI approximately \$180,000. Pierson himself agreed to make a contribution and to contact Maguire and Van Dyk, and AMPI people were to contact the others. Ultimately, the four employees did

<sup>1</sup> Pierson Interview, November 21, 1973.

<sup>2</sup> The applicable provision prohibited a contribution of more than \$5,000 in any one year to any one candidate or political committee. This limit was removed by the Federal Election Campaign Act of 1971, which became effective on April 7, 1972.

<sup>3</sup> See section II.A.2., *supra*.

<sup>4</sup> See section II.D.2., *infra*, and Isham Interview, November 9 and 10, 1973.

<sup>5</sup> Pierson Interview, *supra*.

<sup>6</sup> See Lilly Exhibit 2, 14 Hearings 5991. A ninth individual, who was an associate at that time with the firm of Jacobsen and Long, was also included in the list of attorneys and consultants with two question marks beside his name. Apparently, he did not participate in the payback scheme.

not participate and, instead, as explained in detail below, the money was paid back by the outside lawyers and consultants only, most of whom, it should be noted, claim ignorance of the scheme.

The plan as formulated and executed involved the diversion of corporate funds for political purposes. Nelson does not specifically recall meeting with Pierson, but states that he authorized the plan and takes full responsibility for it.<sup>7</sup>

In the days following the meeting between Nelson, Pierson, and Isham, the AMPI officials began to implement their plan.

## 2. \$100,000 LOAN TO LILLY

Time was of the essence. Since TAPE was scheduled to file a report with the Clerk of the House covering the calendar year of 1969, TAPE had to be repaid the \$100,000 by the end of the year. However, Pierson says that he told Nelson and Isham at their meeting that each conduit was permitted, under the \$5,000-a-year contribution limitation, to contribute to TAPE for the contribution in question only \$5,000 in 1969 and a second \$5,000 the following calendar year. However, this would have resulted in reimbursing TAPE only half the \$100,000 by the end of the year. Therefore, it was decided at the December 8 meeting or within a day or two thereafter that AMPI employee, Bob Lilly, would borrow the entire \$100,000 and repay TAPE before December 31, 1969, and that Lilly would then be repaid by the conduits over a period of time stretching into the 1970 calendar year.

When Lilly was told of the plan, he protested to Nelson so vigorously that he almost lost his job. He suggested that AMPI could get the money back and recontribute it to 20 State Republican committees—and thus comply with the \$5,000 limitation—without the use of a conduit scheme. According to Lilly, Nelson ruled out that alternative by telling him that the White House did not trust the regular Republican Party structure to transfer the money to Kalmbach.<sup>8</sup> Lilly finally agreed to participate in the plan and borrow the money.

On December 17, 1969, Lilly completed a loan application and borrowed \$100,000 from Citizens National Bank in Austin, executing a 60-day note at an interest rate of 8¼ percent.<sup>9</sup> Jacobsen, who was chairman of the board, and two other members of the bank's loan discount committee, Morgan E. Pierce and Walter Donald Roberts, approved the loan.<sup>10</sup> The loan was secured by a \$100,000 certificate of deposit of AMPI and pledged by Lilly who signed a security agreement on the 17th.<sup>11</sup> Stetler, the bank president, says he does not remember whether Lilly had the authority to use co-op funds to secure a personal loan to himself; <sup>12</sup> in fact, there is no evidence that any such authority existed.

Lilly deposited the proceeds of the loan into the TAPE account on the same day.<sup>13</sup> However, to replace the apparently defective pledge by Lilly of a corporate certificate of deposit, Isham, in his capacity as TAPE trustee, wrote a TAPE check, dated December 19,<sup>14</sup> to the

<sup>7</sup> Nelson, 15 *Hearings* 6526, 6527, 6689.

<sup>8</sup> Lilly, 14 *Hearings* 6135. Isham said in a staff interview before Lilly testified that he made a similar suggestion to Nelson, who told him that was impossible.

<sup>9</sup> See Jacobsen Exhibit 2, 15 *Hearings* 6481; Lilly Exhibit 3, 14 *Hearings* 5992-94.

<sup>10</sup> See Jacobsen Exhibit 2, 15 *Hearings* 6481; Jacobsen, 15 *Hearings* 6392.

<sup>11</sup> See Lilly Exhibit 4, 14 *Hearings* 5995-96. The CD was registered in the name of Milk Producers, Inc.—apparently issued to AMPI's predecessor several months previously, before the formation of AMPI.

<sup>12</sup> Stetler affidavit, 17 *Hearings* 7996.

<sup>13</sup> See Stetler affidavit, exhibit E, 17 *Hearings* 7998.

<sup>14</sup> See Stetler affidavit, exhibit F, 17 *Hearings* 7999.

bank to purchase a \$100,000 certificate of deposit for TAPE, and then, in a second security agreement (apparently backdated to December 17),<sup>15</sup> pledged that TAPE certificate of deposit (in lieu of that of AMPI) to secure the loan to Lilly. Thus the transaction had gone full circle: Lilly had borrowed \$100,000 and had repaid TAPE, which in turn had used the money to pledge a \$100,000 certificate of deposit to secure the loan to Lilly. Since TAPE did not report the pledge of the certificate of deposit as of December 31, 1969, the contribution to Kalmbach had been concealed.

Whereas the note was supposed to be paid in 60 days, it was not paid in full until nearly a year later; in fact, the coverup of this and other corporate transactions and payments from AMPI to the conduits continued at least into 1972.

### 3. THE ALLEGED CONDUITS

Based on his records submitted to the Select Committee,<sup>16</sup> Lilly testified that he received the money to repay the \$100,000 principal plus interest on his loan from outside attorneys and consultants named in the meeting of Nelson, Isham, and Pierson. Although each of the alleged conduits interviewed denied having knowingly participated in the plan to divert corporate funds for political purposes, there is evidence that at least some did so. Lilly testified: "I felt that they knew that they could be reimbursed. It was quite obvious, because bills were coming in."<sup>17</sup> In addition, there is evidence that the AMPI board of directors was informed of the conduit scheme and the diversion of hundreds of thousands of dollars of corporate funds to cover the \$100,000 contribution to Kalmbach and subsequent political contributions.

According to Nelson and Lilly, the AMPI board was told, at more than one board meeting, that legal fees were high because some of the fees went to reimburse some attorneys for political contributions.<sup>18</sup> Nelson believes that Stuart Russell and another alleged conduit, Frank Masters, as well as John Butterbrodt, president of the board, were present at those meetings.<sup>19</sup> Although Masters and Butterbrodt deny it, Russell, himself one of the conduits, confirms Nelson's account.<sup>20</sup>

The following is a description of the participation in the payback plan of each of the alleged conduits.

#### *a. Stuart Russell*

Stuart Russell, a lawyer in Oklahoma City who has represented dairy cooperatives for many years, was retained by MPI in 1967 and then by AMPI in 1969 at a retainer of \$1,000 per month plus an hourly

<sup>15</sup> See Lilly Exhibit 5, 14 *Hearings* 5997-98.

<sup>16</sup> See Lilly Exhibit 6, 14 *Hearings* 5999-6001.

<sup>17</sup> Lilly, 14 *Hearings* 5968.

<sup>18</sup> Nelson, 15 *Hearings* 6529; Lilly, 14 *Hearings* 5973.

<sup>19</sup> Masters, an attorney for AMPI who attended nearly all its Board meetings and helped prepare the minutes, denied that such discussions took place. See Masters, 16 *Hearings* 6939, 6955-56; and Section II.D.3f., *infra*. One of the meetings at which the matter was allegedly discussed was the meeting in Las Vegas, held in December 1970, which the Board minutes indicated Butterbrodt attended. Kieffer Howard, an AMPI employee, says that he attended the meeting and that at least the matter of high attorneys' fees was discussed. Furthermore, he says that he believed that the money going to Lilly was used for political contributions. Howard Interview, November 29, 1973.

<sup>20</sup> See Masters, 16 *Hearings* 6955-56; Butterbrodt, 17 *Hearings* 7628. Russell Interview, November 8, 1973. Parr testified that it was common knowledge at AMPI that Russell was billing AMPI and using the money for political purposes. Parr, 15 *Hearings* 6774. See Section II, D.3.a., *infra*.

rate for work done and expenses. Russell served as a conduit of co-op money to Lilly and others and alone received over \$300,000 in bogus fees to cover his payments and taxes, but he denied knowing the money went for political purposes.<sup>21</sup>

In December 1969, Lilly contacted Russell and said he was told to get \$5,000 from Russell. After checking with Nelson and receiving his approval, Russell sent the money by check to Lilly on December 19. At the same time, according to Russell's long-time assistant and secretary, Jane Hart, a bill for \$8,000 was sent to AMPI.<sup>22</sup> The same procedure was repeated in January 1970 when Lilly requested and received another \$5,000 from Russell who then billed AMPI.

Lilly made numerous other requests to Russell in the next 2 years to cover additional payments on the \$100,000 loan and for other political purposes, including moneys that Lilly made available to Jake Jacobsen which Jacobsen represented were for John Connally's use.<sup>23</sup> In each instance, Russell or Hart either sent a check to Lilly or cashed a check and Lilly came to Oklahoma City to retrieve the cash. On each occasion, a corresponding phony billing was sent to AMPI to cover the payment plus Russell's estimated excess taxes incurred as a result of the billing.<sup>24</sup> In all, Russell paid Lilly a total of \$89,500 and other AMPI employees another \$20,000, and contemporaneously billed AMPI \$158,950.<sup>25</sup>

Jane Hart says that she billed AMPI for Russell's estimated excess taxes, but that "there was no fixed amount or percentage" that was billed above the amount of the payment to Lilly.<sup>26</sup> According to Russell and Hart, too little was billed, so that in both 1971 and 1972 Russell was compelled to go to AMPI for more money to cover his taxes for the previous year.

In April 1971, Russell was given an AMPI check for \$50,000 to pay for his excess 1970 income taxes.<sup>27</sup> The payment was apparently made in the form of a loan to Russell who signed a promissory note payable to AMPI. However, there was an escape clause. The note provided that if Russell were to die, the obligation would be waived;<sup>28</sup> also, Russell's monthly retainer was increased from \$1,000 to \$6,000 to cover his monthly payments to AMPI on the note.

Russell made only six payments on the note—totaling \$16,666.68—in 1971.<sup>29</sup> In April 1972, Russell again discovered that his billings to AMPI did not compensate him adequately for his excess 1971 income tax liability. In settlement of his "claims," Russell was provided with another payment, approved by AMPI's new general manager, George Mehren, of \$66,321.48, and the remaining obligation on the 1971 note—approximately \$36,000 plus interest—was forgiven. Thereafter, Russell's retainer was eliminated and he supplied legal services

<sup>21</sup> Russell Interview, *supra*.

<sup>22</sup> Hart Affidavit, 17 *Hearings* 7921.

<sup>23</sup> See Section V.A. *infra*.

<sup>24</sup> Sarah Bezdek, Lilly's secretary, says that the Russell checks to Lilly and his billings to AMPI were sent by Russell to her together as a "routine thing." Bezdek Interview, April 8, 1974.

<sup>25</sup> Hart Affidavit, 17 *Hearings* 7920-35; Townsend, 16 *Hearings* 7094-95.

<sup>26</sup> Prior to the issuance of the Wright Report, Jane Hart prepared an affidavit for submission to the Select Committee detailing Russell's payments to Lilly and others and indicating a total amount different from that reflected in the Wright Report. Subsequent to the publication of the Wright Report, Russell informed Wright, by letter, that the Wright Report's information was incorrect in that regard and submitted his own figures which are consistent with those in the Hart affidavit reflected in the Select Committee's Report.

<sup>27</sup> Hart Affidavit, Exhibit H, 17 *Hearings* 7930.

<sup>28</sup> Hart Affidavit, Exhibit J, 17 *Hearings* 7932.

<sup>29</sup> Hart Affidavit, 17 *Hearings* 7924.



to AMPI and submitted itemized bills for his actual legal services, only, until October 1973, when his relationship with AMPI was terminated.

In all, the committee has determined that Russell's billings to AMPI not for legal services, but for moneys delivered from 1969 forward to Lilly and others associated with AMPI, amounted to over \$300,000.<sup>30</sup>

Russell denies that he knew the moneys he paid to Lilly were for political purposes. He says that he was told by Nelson, at the outset, that the moneys were needed for legitimate legal services by AMPI but that since AMPI management was being criticized by AMPI members for excessive direct "home office" expenditures, he decided to account for the expenses as additional fees to Russell.<sup>31</sup>

With regard to Russell's knowledge of the purpose of his payments to Lilly and others, Lilly testified that he told Russell that the payments to him were used for political purposes, and that in the fall of 1973, Russell told him that he hadn't submitted high enough bills to AMPI to cover the moneys for political contributions.<sup>32</sup> Moreover, Russell has told AMPI's attorneys that Nelson repeatedly stated to him that political contributions by attorneys ought to be treated as a cost of doing business and that he expected attorneys to "take this into account" in billing the co-op. Indeed, Russell admits that he attended an AMPI board meeting in Las Vegas in December 1970, at which Nelson said, according to Russell, that political contributions should be an expense borne by AMPI, not the attorneys involved.<sup>33</sup>

A contemporaneous note allegedly written by Russell himself to Bob Lilly indicates that he knowingly billed AMPI for at least one political contribution. In 1970, Russell gave \$5,000 to Tom Townsend of AMPI who in turn used it to make a political contribution.<sup>34</sup> Lilly, who approved a number of Russell's phony billings, says that Russell then billed AMPI for the payment, and enclosed with the bill a note addressed to Lilly (which Lilly provided to the Select Committee on November 14, 1973) explaining that the bill represented the payback to Russell for the contribution.<sup>35</sup>

If they were ignorant of these transactions at the time, AMPI leaders apparently learned, shortly after Nelson was removed in January 1972, of the magnitude of the Russell transactions. As noted above, in April 1972, Russell received from AMPI a final settlement worth over \$100,000 for his conduit activities. It is undisputed that Russell met with George Mehren (AMPI's new general manager)

<sup>30</sup> This includes the following:

Direct billings for payments to Lilly-----	\$138, 950. 00
Direct billing for payment to Hollowell-----	20, 000. 00
April 1971 payment-----	50, 000. 00
April 1972 payment-----	66, 321. 48
Excess retainer, April 1971-March 1972 (12 times \$5,000)-----	60, 000. 00
Total-----	335, 271. 48
Less: Payments to AMPI on loan-----	(16, 666. 68)
Total-----	318, 604. 80

See Hart Affidavit, *supra*.

<sup>31</sup> Russell Interview, *supra*. The co-op general and administrative expenses, including most legal expenses, were paid from the San Antonio headquarters budget. Thus, to some extent, Russell's explanation does not appear logical since his fees (in lieu of someone else's alleged secret legal fees) were also billed to the "home office."

<sup>32</sup> Lilly, 14 *Hearings* 5956, 5960.

<sup>33</sup> See Wright Report, p. 30.

<sup>34</sup> Lilly testified that one payment of \$5,000 (in June 1970) and another of \$10,000 (in September 1970) were made by Russell in this manner. Lilly, 14 *Hearings* 5958. Townsend testified to one \$5,000 transaction only, in September 1970. Townsend, 16 *Hearings* 7094-95.

<sup>35</sup> See Lilly Exhibit 22, 16 *Hearings* 6041.

and Butterbrodt in late January 1972 to seek payment for his excess taxes resulting from transactions in 1971. They assured Russell that there would be no more of those transactions and agreed to meet his request. Although they claimed they did not know that the prior transactions were illegal, Mehren and Butterbrodt did not press Russell to tell them what he knew, and Russell apparently told them only that if he were called to testify in court about these transactions, he would plead the fifth amendment.<sup>36</sup>

Neither Mehren nor Butterbrodt assumed responsibility for any illegality in connection with the Russell settlement. Butterbrodt explained they had decided to honor all commitments of prior management and that he did not insist on disclosure because it was "not our obligation to investigate to find out whether there was wrongdoing or wasn't."<sup>37</sup> Mehren says that he relied on opinion of counsel to justify the Russell settlement.<sup>38</sup>

### *b. Jake Jacobsen and Joe R. Long*

Jake Jacobsen and his Texas law partner, Joe R. Long, admitted giving \$10,000 to Bob Lilly, but denied recouping the money from AMPI. Lilly, however, says he received a total of \$25,000 from them and that they did recoup the money plus their excess taxes from the corporation. There is independent evidence, obtained by the Select Committee staff after Lilly testified, that tends to corroborate Lilly's account.

The Austin, Tex., firm of Jacobsen and Long was employed by MPI in 1967 and then its successor, AMPI, for a monthly retainer of \$2,500 plus billings and expenses for work done. Jacobsen was subsequently retained by Mid-Am and DI in 1973.<sup>39</sup> As discussed above, Jacobsen was involved in the formation and organization of TAPE, the \$100,000 contribution in August 1969 and the \$100,000 loan by Jacobsen's bank to Lilly in December 1969.

On the same day as the loan to Lilly—December 17, 1969—Jacobsen delivered a \$3,000 check and Long a \$2,000 check to Lilly. The checks, drawn on the law firm account, were made payable to Jacobsen and Long, respectively, and were endorsed by them and by Lilly.<sup>40</sup> According to Lilly's records, he used the proceeds of the checks to pay \$5,000 on the loan on the 17th, leaving a balance due of \$95,000.<sup>41</sup>

In June 1970, Lilly requested another \$5,000 and Jacobsen and Long complied with a firm check dated June 12, 1970, from Jacobsen, of \$2,875 and a firm check of the same date from Long of \$2,125, again each endorsed respectively by Jacobsen, Long and Lilly.<sup>42</sup>

Jacobsen and Long each claimed that they were told by Lilly<sup>43</sup> (and perhaps Nelson) that the money was needed to help Lilly repay a debt for TAPE that could not for some reason be paid by TAPE. Although Jacobsen says that Long may have discussed with Lilly the possibility

<sup>36</sup> Butterbrodt, 17 *Hearings* 7629–30, 7667–68.

<sup>37</sup> Butterbrodt, 17 *Hearings* 7633.

<sup>38</sup> Mehren, 16 *Hearings* 7310.

<sup>39</sup> Jacobsen, 15 *Hearings* 6380, 6382.

<sup>40</sup> See Lilly Exhibit 7, 14 *Hearings* 6002.

<sup>41</sup> See Lilly Exhibit 6, 14 *Hearings* 5999–6001.

<sup>42</sup> See Lilly Exhibit 8, 14 *Hearings* 6003. The December and June \$5,000 payments were divided according to the ownership shares of Jacobsen and of Long in their firm at the time—60–40% in December, and 57.5–42.5% in June. Jacobsen, 15 *Hearings* 6402.

<sup>43</sup> According to Lilly Exhibit 6, 14 *Hearings* 5999–6001, Lilly apparently contacted Long in December, 1969.

of billing AMPI for the payments plus taxes,<sup>44</sup> both Jacobsen and Long deny that they did recoup any of the money from AMPI.<sup>45</sup> Jacobsen explained that he gave Lilly the money "as sort of a fee return" because AMPI was a "good client, and it was worth the good business relations."<sup>46</sup>

There is evidence suggesting that, on the contrary, Jacobsen and Long did recoup the payments plus taxes from AMPI, at the same time, or shortly after each payment.

On the same day as the loan and the first \$5,000 payment to Lilly—December 17, 1969—the firm of Jacobsen and Long located in Austin (1) billed AMPI at San Antonio for \$10,000 for work on a certain matter,<sup>47</sup> (2) was paid by the San Antonio home office the full amount and (3) deposited the \$10,000 in its Austin account.<sup>48</sup>

It was Lilly's understanding that after the first recoupment, Jacobsen and Long billed AMPI for their subsequent payments to Lilly on a 3 or 4 week delayed basis. Thus, on July 16, 1970, 1 month after the June payment, the firm billed AMPI a total of \$22,000, including what Lilly believes was a fictitious charge of \$10,000 for a particular matter.<sup>49</sup>

Moreover, Lilly's records indicate and he testified that he received another \$15,000 from Jacobsen and Long to make payments on the loan—\$5,000 on February 2, 1970 (the same day Lilly deposited \$10,000 in his account and made a \$15,000 payment on the loan) and \$10,000 on August 6, 1970.<sup>50</sup> Although unknown at the time of Lilly's testimony in November 1973, the Select Committee has found in the records of Jacobsen and Long independent evidence that tends to corroborate Lilly's account.

On February 2, 1970—the same day Lilly says he received \$5,000 from Jacobsen and Long—Jacobsen cashed a firm check for \$3,000 and Long cashed a firm check for \$2,000, for a total of \$5,000.<sup>51</sup> On August 6, 1970—the same day Lilly says he received another \$10,000 from them—Jacobsen apparently cashed a check for \$5,750 and Long another check for \$4,250, for a total of \$10,000.<sup>52</sup> Although Jacobsen and Long say that these checks represented normal withdrawals from their firm and not additional payments to Lilly,<sup>53</sup> neither can explain

<sup>44</sup> Stuart Russell says that at one point he complained to Lilly about the amount of money and number of payments requested of him and asked why Lilly couldn't ask others. According to Russell, Lilly said that Joe Long had made some payments, too. Russell interview, *supra*. This is consistent with a conversation between Nelson and Russell about conduit attorneys, during which, according to Russell, Nelson said that AMPI was paying Jacobsen for political contributions. See Wright Report, p. 30.

<sup>45</sup> Jacobsen, 15 *Hearings* 6395-96; Long affidavit, 17 *Hearings* 7969-76. There is some evidence that in the spring of 1969, Jacobsen had already counseled Isham to divert funds—in that case, those of TAPE—for unreported cash contributions, but that Isham objected because (1) it wouldn't work (because the TAPE moneys would have to be accounted for) and (2) it would be illegal. Isham says that nothing more was said to him about the matter by either Jacobsen or Nelson, to whom Isham says he reported the matter. Isham interview, *supra*.

It should be noted that the alleged Jacobsen-Isham conversation may have taken place essentially contemporaneously with the Semer-Kalmbach meetings at which, by Jacobsen's own account, it was understood that Kalmbach requested a \$100,000 cash contribution and that it not be reported. See Jacobsen, 15 *Hearings* 6387-89 and Section II.A.2., *supra*.

<sup>46</sup> Jacobsen, 15 *Hearings* 6395, 6404.

<sup>47</sup> Less than 1 month later, on January 6, 1970, the firm billed AMPI another \$10,000 for the same matter. See Lilly Exhibit 9, 14 *Hearings* 6004-06.

<sup>48</sup> See Jacobsen Exhibits 4 and 5, 15 *Hearings* 6482, 6483.

<sup>49</sup> Lilly Exhibit 11, 14 *Hearings* 6010-11.

<sup>50</sup> See Lilly, Exhibit 6, 14 *Hearings* 5999-6001; Lilly, 14 *Hearings* 5937.

<sup>51</sup> See Jacobsen, Exhibits 9 and 10, 15 *Hearings* 6485; Morgan affidavit, 17 *Hearings* 7988-89. This affidavit was based to a large extent on the results of an extensive search by Select Committee staff investigators of the records of Jacobsen and Long in Austin.

<sup>52</sup> See Jacobsen Exhibits 14 and 15, 15 *Hearings* 6486-87; Morgan affidavit, *supra*.

<sup>53</sup> Jacobsen, 15 *Hearings* 6402-03, Long affidavit, *supra*.

the reason that the checks were cashed or the disposition of the funds, or the coincidence that the amounts of the withdrawals equal the amounts Lilly said he received from them on the dates involved.

Lilly believes that the Jacobsen and Long firm billed AMPI for those payments, too, through billings of \$10,000 on April 21, 1970, and \$22,000 on August 21, 1970.<sup>54</sup> Long says that these and the other billings discussed above—in December 1969 and January, April, July, and August, 1970—represented legitimate legal services performed by him for AMPI.<sup>55</sup>

Jacobsen's and Long's records reveal other transactions similar to those involving Lilly. For example, there are two other sets of checks in the same ratio as the June and August 1970 checks and cashed by Jacobsen and Long—two checks totaling \$10,000 on September 9, 1970 and two totaling \$5,000 in February 1971<sup>56</sup>—for which no specific explanation of the disposition of the funds was given.<sup>57</sup> While the committee has not been able to determine what other use, if any, Jacobsen and Long made of these funds in connection with AMPI, there is evidence that they were involved, on at least three other occasions, with transfers of money, totaling \$20,000, to Lilly and another AMPI employee for political purposes in addition to the two \$5,000 amounts to Lilly for the repayment of his loan.

#### *c. W. DeVier Pierson*

Originally a lawyer from Oklahoma City, W. DeVier Pierson came to Washington in 1965 to serve as chief counsel to the Committee for the Reorganization of Congress; in 1967 he joined the White House staff as associate special counsel and in 1968, he became special counsel, primarily for domestic policy matters, including agriculture.<sup>58</sup>

When Pierson left the administration in January 1969, he went into private law practice in Washington, and his firm (at that time, Sharon, Pierson & Semmes)<sup>59</sup> was retained by AMPI, for \$2,000 per month, plus billings for particular casework and expenses, to monitor and provide advice in connection with certain Federal administrative agency matters.

As noted above, Pierson advised AMPI (and DI) of the reporting requirements of their political trusts and, in December 1969, attended the meeting with Nelson and Isham at which the payback scheme originated. He agreed to give some money to Lilly and to contact two others, Ted Van Dyk and Richard Maguire, whom he knew.

Pierson says that upon his return to Washington after the December 8 meeting, he did contact Van Dyk and Maguire and told each of them that someone from AMPI would be contacting them. He says he heard no more of the matter until January 1970 when Lilly contacted him and asked for \$5,000 to which Pierson had agreed as part of the payback plan. Pierson says that he wrote a \$5,000 check payable to

<sup>54</sup> Lilly, 14 *Hearings* 5938, 5940. See Lilly Exhibits 10 and 12, 14 *Hearings* 6007-09, 6012-14.

<sup>55</sup> Long affidavit, *supra*. The firm's secretary from 1959 to Jan. 31, 1972, Eula Bulkley, says that she did not maintain files on case matters for billing purposes, but billed clients according to whatever instructions were given to her by Jacobsen or Long. Bulkley interview.

<sup>56</sup> See Jacobsen Exhibits 16, 19, and 20, 15 *Hearings* 6437, 6495; Jacobsen, 15 *Hearings* 6404; Morgan Affidavit, *supra*.

<sup>57</sup> See Jacobsen, 15 *Hearings* 6433; Long Affidavit, *supra*.

<sup>58</sup> Pierson interview, *supra*.

<sup>59</sup> In 1971, it became Sharon, Pierson, Semmes, Crollius and Finley. Pierson interview, *supra*.

"Cash" dated January 26, 1970, cashed it and gave the proceeds to Lilly. According to Lilly, he deposited the money on February 2, 1970—along with the \$5,000 he allegedly received that same day from Jacobsen and Long—for the purpose of making a payment on the \$100,000 loan.<sup>60</sup>

Pierson readily concedes that he was aware of the plan for the conduits to recoup the money from AMPI, but he denies that he did so. On the other hand, Isham understood that Pierson did recoup the money at the outset of the plan. Moreover, at the same time that Pierson agreed to participate in the payback plan, he obtained the approval of AMPI officials for a year-end payment to his firm of \$8,500 and, shortly thereafter, a 100-percent increase in his firm's monthly retainer.

In a billing from Pierson's firm to AMPI dated December 19, 1969—11 days after the meeting and 2 days after the loan to Lilly—there is, in addition to the monthly retainer of \$2,000 and disbursements of \$16.21, a one-time charge of \$8,500 for "additional legal services in connection with legislative and administrative programs of the dairy industry," including certain listed topics.<sup>61</sup> Beginning in 1970, the firm's monthly retainer was doubled to \$4,000 and it remained at that level until his firm was released by AMPI in early 1972.

Pierson conceded that he discussed the \$8,500 charge with Nelson at the December 8 meeting (when the payback scheme was hatched) but maintains that it represented a legitimate charge for work done in 1969 in excess of his time compensated by the retainer and that he had intended to discuss the matter with Nelson even before learning of the scheme.<sup>62</sup> While Pierson did not keep time records of his day-to-day general monitoring activities for AMPI, he did maintain time records for his casework on particular AMPI matters which he says reflect an additional 150 hours of time during 1969. With respect to his increase in retainer effective January 1, 1970, Pierson says that he discussed the increase with either Nelson or Parr in late December 1969 to cover excess work in subsequent years and avoid the need for any year-end adjustments in the future.

#### *d. Ted Van Dyk and Kirby Jones*

Ted Van Dyk, a former aide to Vice President Humphrey, was hired by AMPI in 1969 as, in Van Dyk's own words, an "ambassador to the Democratic liberal community,"<sup>63</sup> as well as a general consultant on public affairs. He, and one of his employees, Kirby Jones, each paid Bob Lilly \$10,000 and recouped the money from AMPI, but they deny knowing that the money was used for political purposes.

Van Dyk served as one of the principal managers of Humphrey's 1968 Presidential campaign and, in 1969, became a vice president of Columbia University. While at Columbia, he did some consulting work for AMPI, whose leaders, Nelson and Parr, had met while

<sup>60</sup> Lilly, 14 *Hearings* 5972; See Pierson check, 17 *Hearings* 8056. According to Lilly's records, he made a \$15,000 payment on the loan the same day, February 2, 1970. See Lilly Exhibit 6, 14 *Hearings* 5999-6001.

<sup>61</sup> Pierson billing, 17 *Hearings* 8055. Pierson addressed the bill to MPI, although it had merged into AMPI two months earlier.

<sup>62</sup> Pierson also points out that even if the \$8,500 payment was intended as a recoupment for his payment to Lilly, it would not have covered his out-of-pocket cost of \$5,000 since he had only approximately a 25% ownership share in his firm.

<sup>63</sup> Van Dyk, 16 *Hearings* 7028.

he was an aide to the Vice President.<sup>64</sup> In late 1969, he left Columbia and formed the Washington consulting firm of Ted Van Dyk Associates, which was hired by AMPI at an annual retainer of \$25,000 plus expenses; in mid-1971, the retainer was increased to \$5,000 per month. But in February, 1972, the new AMPI management terminated the retainer. The firm also worked for DI from mid-1972 until October, 1973.<sup>65</sup>

Van Dyk thinks that in December, 1969 probably either Nelson or Parr<sup>66</sup> contacted him and asked that he pay \$10,000 to Lilly as added compensation which AMPI did not want reflected in the company's books.<sup>67</sup>

Although he says he thought the request was unusual,<sup>68</sup> Van Dyk says he had no reason to question the explanation and complied with the request. On December 22, 1969—5 days after the \$100,000 loan was made to Lilly—(1) Van Dyk mailed a \$10,000 check to Lilly, (2) he mailed an invoice to Nelson covering the \$10,000 and (3) AMPI sent him payment for the bill before it was received.<sup>69</sup> Van Dyk said that the payment to Lilly and the billing and payment involving AMPI were all done simultaneously because Van Dyk needed the money in order to make the payment to Lilly before the end of the calendar year as requested by AMPI.<sup>70</sup>

There the matter stood until March 1970, when Van Dyk sent an IRS Form 1099 to Lilly and the Internal Revenue Service reporting the \$10,000 payment to Lilly as additional compensation. In a letter to Lilly at that time, he wrote:

As protection for both of us, you will be receiving a withholding slip for the \$10,000—just as I received one.

That closes the circle and keeps us beyond question.<sup>71</sup>

Although Van Dyk thought the matter was irregular, he says he had no reason to believe the transaction was anything other than as it was represented to him.

The withholding slip caused a minor stir at AMPI, because it forced Lilly to reflect the \$10,000 as extra income and pay tax on it—though he, of course, had used the \$10,000 to make a payment on the \$100,000 loan.<sup>72</sup> Van Dyk recalls receiving an angry call from Isham asking him why he had reported the payment as compensation to Lilly.

Despite Isham's call—which Van Dyk admitted raised doubts in his mind about the first transaction<sup>73</sup>—Van Dyk was asked and again provided another \$10,000 to Lilly the following summer. Van Dyk says that in September 1970,<sup>74</sup> Nelson or Parr again called him and, as in the previous request, asked that he pay \$10,000 to Lilly as additional compensation, but without reporting it as a firm expense. Van Dyk responded that his firm could not do so without filing another

<sup>64</sup> Van Dyk, 16 *Hearings* 6983–84.

<sup>65</sup> Van Dyk, 16 *Hearings* 6984.

<sup>66</sup> A letter from Van Dyk to Nelson forwarding the first \$10,000 payment to Lilly refers to a conversation between Van Dyk and Lilly, (see Lilly Exhibit 13, 14 *Hearings* 6015–17) but Van Dyk does not recall speaking to Lilly. Van Dyk, 16 *Hearings* 6994.

<sup>67</sup> Van Dyk, 16 *Hearings* 6991–92.

<sup>68</sup> Van Dyk, 16 *Hearings* 6992.

<sup>69</sup> See Lilly Exhibits 13 and 14, 14 *Hearings* 6015–18.

<sup>70</sup> Van Dyk, 16 *Hearings* 6993.

<sup>71</sup> See Lilly Exhibit 15, 14 *Hearings* 6019–20.

<sup>72</sup> It appears that Lilly was subsequently paid by AMPI to cover his excess taxes resulting from the report of the \$10,000 from Van Dyk. Lilly, 14 *Hearings* 5945.

<sup>73</sup> Van Dyk, 16 *Hearings* 6997–98.

<sup>74</sup> The first correspondence from Van Dyk to Lilly concerning this second request is dated August 27, 1970. See Lilly Exhibit 16, 14 *Hearings* 6021–23 and discussion *infra*.

Form 1099, and when he was then asked to pay Lilly the money from his personal funds, he said that for him to do so—and be compensated by AMPI for the payment plus his excess taxes—would be too costly become of his income tax bracket. He says he was then asked if he could have an employee with a lower bracket act as the conduit. Van Dyk says that although he thought the matter was awkward, he asked his employee, Kirby Jones, if he would do so, and Jones agreed.<sup>75</sup>

Jones says that Van Dyk passed on to him AMPI's request, describing the similar transaction the previous year and AMPI's request that no IRS forms be filed this time. Jones, who did not have any contact with the milk producers, conceded that he also thought the procedure was unusual, but he agreed to act as the conduit because he was to receive at that point an extra \$2,000 from the transaction to cover his future excess tax liability which he planned to use temporarily for an upcoming trip abroad.<sup>76</sup>

On August 27, 1970, Van Dyk sent a firm invoice to Lilly covering what he termed the \$12,000 "direct expense," and Isham wrote a check to Ted Van Dyk Associates dated September 4, 1970, in payment.<sup>77</sup> On September 9, 1970, Jones sent a check for \$10,000 to Lilly,<sup>78</sup> and 2 days later Van Dyk gave Jones a check for \$12,000, with the fictitious notation "AMPI Convention Project."<sup>79</sup> Jones later received from the firm a form 1099 reflecting the \$12,000 payment and he duly reported it on his Federal income tax return and paid the tax due.<sup>80</sup>

Both Van Dyk and Jones say that they did not know that Lilly had borrowed money for political purposes or that the \$20,000 was used to repay those loans or for any other political purpose.<sup>81</sup>

#### *e. James R. Jones*

Congressman James R. Jones (Democrat, Oklahoma), before being elected to Congress in 1972, was employed by AMPI from 1969 to 1972. It is undisputed that during that period he twice made payments of \$5,000 to Bob Lilly, for a total of \$10,000, but it is not clear whether he knew the purpose of the payments or whether he recouped the money from AMPI.

Congressman Jones was a member of President Johnson's White House staff, first as an assistant to Marvin Watson, the President's appointments secretary, and then, in 1968 after Watson left, as Watson's replacement. While at the White House, he met Nelson and Parr and, when he left the administration in January 1969, he was hired by them pursuant to an oral agreement for 5 years at an annual retainer of \$40,000 plus expenses to edit and publish the co-op's monthly magazine, *Dairymen Digest*. In addition, he was to receive a reasonable amount for other work performed.<sup>82</sup>

Although he had hoped to act as a general political and management consultant for AMPI and did, in fact, coordinate some regional public relations activity for AMPI, Jones' primary responsibility

<sup>75</sup> Van Dyk, 16 *Hearings* 6998.

<sup>76</sup> Jones affidavit, 17 *Hearings* 7939.

<sup>77</sup> Lilly exhibit 16, 14 *Hearings* 6021-23.

<sup>78</sup> Van Dyk exhibit 3, 16 *Hearings* 7045.

<sup>79</sup> Van Dyk exhibit 1, 16 *Hearings* 7043.

<sup>80</sup> Jones affidavit, 17 *Hearings* 7938-43. See Van Dyk exhibit 2, 16 *Hearings* 7044.

<sup>81</sup> Van Dyk, 16 *Hearings* 7000; Jones affidavit, *supra*.

<sup>82</sup> Jones interviews, Dec. 13, 1973, and Jan. 18, 1974; Nelson interview, June 12, 1974.

was as editor of the magazine. He, along with a number of other AMPI attorneys and consultants, was fired in 1972 when Mehren became general manager. During the 1969-72 period, he also maintained a private law practice in Tulsa, Okla.

In December 1969, Jones was asked by Lilly to contribute \$5,000. According to Jones, he was told that farmer contributions to TAPE were not being made in sufficient amounts and he was asked to make a contribution to TAPE. Jones says that he agreed to give \$5,000 on condition that it be used to purchase tickets to Democratic fundraising dinners and that he and his wife be permitted to use some of the tickets. Jones says that sometime later he and his wife did attend Democratic dinners using tickets purchased by TAPE.<sup>83</sup>

When Jones was first questioned about this matter by the Select Committee staff in December 1973, he recalled that he paid the \$5,000 directly to TAPE. In fact, it appears that he paid the money to Lilly, by check dated December 23, 1969, which Lilly used to help repay the \$100,000 loan.<sup>84</sup> More recently, Jones has stated that he made the check payable to Lilly as requested, but he could not explain why Lilly wanted the money paid to him.<sup>85</sup>

Jones did not remember making any additional payments to Lilly or TAPE, but when shown a copy of his canceled check dated May 5, 1970, in the amount of \$5,000 and payable to Lilly<sup>86</sup> (which Lilly used for his political loans), he acknowledged making the payment and said that Lilly had told him again that more money was needed to build up the TAPE treasury. In fact, by 1970 TAPE had over \$300,000 in its account.<sup>87</sup> Jones says that although he edited the AMPI magazine and made speeches for TAPE to solicit new members, he did not know the existing level of TAPE funds.<sup>88</sup>

There is also evidence that Jones, who acknowledged that the payments to Lilly were for political contributions, simultaneously received from AMPI amounts approximately 40 percent in excess of those payments. On December 19, 1969—2 days after the loan to Lilly and 3 days before Jones' first check to Lilly—(1) Jones sent a bill to AMPI (addressed to Bob Lilly) for \$6,890 for "professional services and expenses"<sup>89</sup> and (2) Lilly requested and Isham approved a payment to Jones for the invoice.<sup>90</sup> On April 9, 1970 (less than 1 month before the second payment to Lilly), Jones sent a bill to AMPI (addressed to Lilly) in the amount of \$7,150 "for professional services rendered on special projects."<sup>91</sup> Eleven days later, on April 20, 1970, a check was written to Jones for that invoice.<sup>92</sup>

Jones conceded that he was short on cash in December 1969 and April-May 1970 and that the two invoices were submitted to secure the money to pay Lilly. A principal matter in dispute is whether he had rendered services for which he was legally entitled to additional com-

<sup>83</sup> Jones interviews, *supra*.

<sup>84</sup> Jones check, 17 *Hearings* 8057.

<sup>85</sup> Jones letter, 17 *Hearings* 8058-60.

<sup>86</sup> Jones check, 17 *Hearings* 8057.

<sup>87</sup> The TAPE reports, filed with the Clerk of the House of Representatives, show receipts in 1969 totalling approximately \$369,000 and cash on hand at the end of each reporting period in 1970 of over \$300,000.

<sup>88</sup> Jones also says that he was subsequently asked by Lilly for a third payment but that he refused because he understood TAPE had accumulated approximately \$800,000 by that time.

<sup>89</sup> Jones' first billing, 17 *Hearings* 8065.

<sup>90</sup> AMPI check, 17 *Hearings* 8066.

<sup>91</sup> Jones' second billing, 17 *Hearings* 8069-70.

<sup>92</sup> AMPI check, 17 *Hearings* 8071.



pensation or whether the billings were a device to recoup the amount of his payments to Lilly plus Jones' excess taxes.

In the staff interviews, Jones asserted that the two billings represented additional work he did for AMPI, although in the 3-year period that Jones worked for AMPI, these invoices were the only special billings that Jones submitted to AMPI in addition to his monthly retainer and expenses. Subsequently, through his attorney, Jones submitted to the committee staff an analysis of his time records for 1969 and part of 1970 to justify the two billings.

With respect to the earlier billing, he states that he estimated on December 19th that his services for AMPI in 1969, at a rate of \$50 per hour for work in Tulsa and \$70 per hour for work away from Tulsa, would represent a total of \$46,890—which he covered by the \$6,890 billing plus the \$40,000 retainer payments.<sup>93</sup> He says that he later found in 1970 that, in fact, his time for 1969 represented an additional \$250. Therefore, when he estimated in April 1970, his excess services for the entire 1970 calendar year, he added \$250 to \$6,900 (rounding off the \$6,890 figure) and billed AMPI an additional \$7,150.<sup>94</sup>

This analysis apparently fails to take into account the fact that the April 9, 1970, billing refers to a "special project" and neither Congressman Jones nor his attorney have explained what, if any, special project (apart from time spent on regular services for AMPI) Jones performed.<sup>95</sup> Moreover, Nelson does not recall any work performed by Jones other than on the co-op magazine and, although Jones claims his hours in 1971 amounted to an additional \$39,000, he submitted no bills to AMPI for that work.<sup>96</sup>

#### *f. Frank Masters*

Frank Masters, a San Antonio attorney, has performed legal services for AMPI and its predecessor co-ops for a number of years.<sup>97</sup> According to Lilly's records, Masters paid him a total of \$6,000 in 1969 and 1970 which he applied to repay the original \$100,000 and subsequent political loans.<sup>98</sup> Masters acknowledges the payments<sup>99</sup> but denies that he knew of the conduit scheme or billed AMPI for the payments.

According to Masters, Lilly came to him late in 1969 and asked him to make a substantial contribution in cash "to Austin."<sup>1</sup> Masters understood Lilly to mean the Texas Democratic Party and its elected officials, although Masters says he was not aware of any campaigns in progress at the time. Masters says that since he knew that Lilly had spent many years in political work in Austin and assumed that Lilly might help bring Masters business or give him some influence

<sup>93</sup> Apparently through an oversight, Jones was paid \$6,980 by AMPI—\$90 more than his December 19 bill of \$6,890.

<sup>94</sup> See Kennelly letter, 17 *Hearings* 8061-64. According to Jones' attorneys' analysis of the entire year—based on actual records for the first 7 months of 1970 and projections for the remaining months (during which he unsuccessfully ran for Congress)—Jones' services represented a total of \$44,750, or \$2,400 less than he billed to AMPI.

<sup>95</sup> George Mehren of AMPI told the Committee that it seemed to him that Jones' work on the co-op's magazine, *Dairymen Digest*, consisted of arranging the covers and doing minor editorial work on the magazine, or, as he put it, "edit the editing." Mehren, 16 *Hearings* 7330.

<sup>96</sup> See Nelson interview; Kennelly letter, *supra*. Jones' failure to bill AMPI regularly for excess time or other work may account for the fact that Robert Isham, AMPI's comptroller, was not even aware that an agreement existed whereby Jones could bill AMPI for such time or work. See Isham interview, *supra*.

<sup>97</sup> Masters, 16 *Hearings* 6938.

<sup>98</sup> Lilly, Exhibit 6, 14 *Hearings* 5999-6001.

<sup>99</sup> Masters, 16 *Hearings* 6942-43, 6951-52.

<sup>1</sup> Masters, 16 *Hearings* 6940.

at the State level, he agreed. Lilly testified that he made several requests of Masters but that he did not mention State candidates; instead he says he told Masters that he needed money for political contributions.<sup>2</sup>

Although Masters denies billing AMPI for his payments to Lilly, he conceded that he never received either any acknowledgement from any party or State official for his contributions or any assistance for his law practice from Lilly.<sup>3</sup>

Although Lilly does not recall discussing with Masters the possibility of recoupment,<sup>4</sup> there is evidence that Masters attended the Las Vegas AMPI board meeting at which Nelson reportedly referred to high legal fees and use of AMPI attorney fees for making political contributions.<sup>5</sup>

While Masters apparently assembled over a period of time the cash he gave to Lilly,<sup>6</sup> thereby making the tracing of the source of the funds virtually impossible, several transactions between AMPI and Masters at about the time of the loan to Lilly seem out of the ordinary. In addition to the regular monthly billings by Masters and payments from AMPI, Isham wrote a check dated December 2, 1969, to Masters for \$5,397.96,<sup>7</sup> but there is no record in AMPI's or Masters' files of an underlying invoice. On December 19, 1969, an AMPI check to Masters for \$5,000 was made out, again with no invoice.<sup>8</sup>

Masters has no explanation for the December 2d payment and says that the December 19th was an advance payment to him on services performed but not billed to AMPI. Although Masters says he talked directly to Isham to get the advance, there is no record at AMPI of any request or explanation for the check.<sup>9</sup>

### *g. Richard Maguire*

Richard Maguire is a lawyer who was an official with the Democratic National Committee for a number of years. His firm was retained by AMPI in 1969 at a monthly retainer of \$2,500. According to Lilly, Maguire made a number of cash payments to him in 1970 and 1971 totaling \$10,000.<sup>10</sup> Except in one instance, Lilly allegedly obtained Maguire's payments through another AMPI consultant, Clifford Carter.<sup>11</sup> Maguire says he does not recall making any payments to Lilly directly or through Carter and he knows of no conduit payback scheme.<sup>12</sup>

Lilly has reportedly informed AMPI's attorneys that Maguire recouped the money through an increase in his retainer, and Isham has

<sup>2</sup> Lilly, 14 *Hearings* 5967. If, in fact, Lilly referred to Austin, he may have been referring to his loan (and account) in the Citizens National Bank of Austin.

<sup>3</sup> Masters, 16 *Hearings* 6954, 6955.

<sup>4</sup> See Lilly, 14 *Hearings* 5967.

<sup>5</sup> See discussion in section II.D.3 *supra*.

<sup>6</sup> See Masters, 16 *Hearings* 6955, 6970-71.

<sup>7</sup> Masters Exhibit 3, 16 *Hearings* 6982.

<sup>8</sup> Masters Exhibit 2, 16 *Hearings* 6982.

<sup>9</sup> On December 20, an invoice for \$4,200, that makes no reference to either previous check that month, was submitted by Masters. See Masters Exhibit 1D, 16 *Hearings* 6981. On January 6, 1970, AMPI paid Masters for the December 20th bill (\$4,200) plus bills for August, September and October, 1969 (all three of which had been dated by Masters on November 4) for a total of \$11,840—less the December 19th \$5,000 payment termed an "advance." See Masters Exhibits 1, 1A, 1B and 1C, 16 *Hearings* 6973-6980. The delay in paying the November 4th bills until January appears to be unusual because AMPI records show that most of Masters' bills (both before and after November 4) were paid on the same day or within several days of their submission to AMPI.

<sup>10</sup> See Lilly Exhibit 6, 14 *Hearings* 5999-6001.

<sup>11</sup> Lilly, 14 *Hearings* 5968-69.

<sup>12</sup> Maguire interview, November 13, 1973.

confirmed this.<sup>13</sup> Starting January 1, 1970, soon after the conduit scheme began (but before Maguire, according to Lilly's records, made any payments to Lilly),<sup>14</sup> Maguire's monthly retainer was raised by AMPI to \$4,000 a month—a jump of \$18,000 per year—and continued for 2 years until terminated by AMPI.<sup>15</sup> With regard to the retainer, Maguire says that he assumed that because he had advised Nelson and Parr concerning the formation of TAPE which had proven successful, they were rewarding him with an increase.<sup>16</sup>

#### *h. Clifford Carter*

Clifford Carter, a Washington, D.C., consultant who is now deceased, reportedly was a friend of Nelson and was retained by MPI and then AMPI for over 3 years beginning in 1968.<sup>17</sup> AMPI's records indicate that he received monthly payments of \$1,000 plus expenses during that time.

According to Lilly, Carter made several payments to Lilly totaling \$10,000 in 1970 and 1971 and, as noted above, Lilly usually received both Maguire's and Carter's payments from Carter at the same time.

There is no direct evidence that Carter billed AMPI for his payments. However, in an invoice dated December 29, 1969, Carter billed AMPI \$3,500 for "Services rendered for January 1970." This appears to be the only invoice of its kind that Carter submitted to AMPI while he was retained. Since Carter is now deceased, the committee has been unable to obtain necessary clarification of this bill and of Carter's knowledge of the AMPI conduit arrangement.

#### **E. USE OF THE CONDUIT SCHEME FOR OTHER CORPORATE POLITICAL CONTRIBUTIONS**

After the \$100,000 loan in December 1969, Lilly borrowed additional moneys from the Citizens National Bank (also secured by a TAPE certificate of deposit) during 1970 and 1971 at Nelson's direction, to make other political contributions, which were subsequently repaid with corporate funds laundered through the conduits, primarily Russell.<sup>18</sup>

Since TAPE had hundreds of thousands of dollars in funds available for political contributions, the question arises as to why corporate funds were used for political contributions. At least with respect to the corporate contributions to national Democratic candidates, detailed elsewhere in the committee's report, Nelson and Parr had a simple and telling explanation: They testified that they made such unreported, cash political contributions because they feared that they would "incur the enmity" of the Nixon administration if their support of key Democrats was detected by the White House.<sup>19</sup>

<sup>13</sup> See Isham interview, April 24, 1974; Wright Report, p. 22.

<sup>14</sup> It should be noted that Lilly could not identify, from his records, the source of certain cash payments including a \$5,000 payment on or about February 2, 1970. See Lilly Exhibit 6, *supra*.

<sup>15</sup> Maguire interview, *supra*.

<sup>16</sup> *Ibid.*

<sup>17</sup> Wright Report, p. 23.

<sup>18</sup> Lilly Exhibit 26, 14 *Hearings* 6045-49.

<sup>19</sup> Nelson, 15 *Hearings* 6547; see Parr, 15 *Hearings* 6832. AMPI, Nelson and Parr have each pleaded guilty to violating 18 U.S.C. 371 for conspiring to make corporate contributions in violation of 18 U.S.C. 610 in connection with the 1968, 1970, and 1972 Federal elections. In addition, AMPI pleaded guilty to five specific corporate contributions, including the \$100,000 to Kalmbach.

### III. CONTACTS BETWEEN AMPI AND THE PRESIDENT AND ADMINISTRATION OFFICIALS IN 1970—AN ALLEGED \$2 MILLION PLEDGE TO THE PRESIDENT'S RE-ELECTION CAMPAIGN

The milk producers were reportedly "disappointed" with the White House response to their \$100,000 cash contribution in 1969. The following year, their lobbying efforts and contacts with the White House increased—as did the amount of their commitments.

During 1970 and 1971, certain White House officials understood AMPI had pledged and then later reaffirmed its commitment to contribute \$2 million to the President's reelection campaign and, at one point, a White House official reportedly told the milk producers that it was a \$2 million "package." During that same period, AMPI realized substantially all of its three "objectives" articulated to Kalmbach in connection with the \$100,000 contribution in 1969. In 1970, the administration granted the dairy industry the largest single milk price support increase by any administration at the start of a marketing year, and set dairy import quotas generally favorable to the milk producers.

In 1971, the President reversed the decision of his Secretary of Agriculture and granted another price support increase. Within hours after the President's decision, the milk producers were called upon by top Presidential aides to reaffirm the \$2 million pledge which they did just prior to the public announcement of the President's decision. Although industry and administration officials deny any *quid pro quo* linking the announcement to the reaffirmation, Kalmbach, at the direction of Ehrlichman, met with a key dairy leader and Murray Chotiner who told him that the reaffirmation was linked to the announcement of the President's decision. Soon after the pledge was first announced to White House officials, the President personally called and met with the AMPI leadership and, at about the time some contributions were, in fact, made, he met with leaders of the other co-ops and later attended and addressed an AMPI convention.

The events in 1970, especially with respect to the \$2 million pledge and import quotas, are discussed in detail in this section, and those in 1971, with respect to milk price supports and dairy money for the President's campaign, Treasury Secretary John Connally and the Ellsberg break-in, in sections IV and V.

#### A. MEETINGS WITH COLSON—THE \$2 MILLION PLEDGE

##### 1. MEETINGS WITH COLSON

Charles Colson joined the White House staff in November 1969 as Special Counsel to the President. By that time, the organization of the new administration—which was the subject of the early Semer-Kalmbach meetings in 1969—began to take shape. In contrast to Semer's expectations, he found that the White House was organized along essentially political, rather than subject matter, lines. Colson was given the responsibility for special-interest groups, such as the dairy co-ops.<sup>20</sup>

<sup>20</sup> Ehrlichman, 16 *Hearings* 7375. Prior to entering a guilty plea to one count of obstruction of justice in the Ellsberg break-in case on June 3, 1974, Colson had refused to testify before the Select Committee on Fifth Amendment grounds.

Colson apparently had a great deal of antipathy for Semer,<sup>21</sup> dating back several years when both were partners in a Washington law firm. At about the same time that Colson began dealing with AMPI, it hired the law firm of Reeves and Harrison, one of whose name partners, Marion Harrison, was a Nixon State cochairman in 1968 and a good friend of Colson.<sup>22</sup> According to Kalmbach, Colson was probably instrumental in Harrison replacing Semer as AMPI's lawyer for White House matters.<sup>23</sup>

AMPI leaders and Harrison met with Colson at least three or four times in 1970.<sup>24</sup> In an apparent continuation of the efforts begun in 1969, the purpose of these meetings was twofold: (1) to press AMPI's position to the administration on important substantive matters affecting the dairy industry, such as quotas on dairy products and milk price supports; and (2) to reiterate their interest in making substantial contributions to the President's campaign.<sup>25</sup>

## 2. THE \$2 MILLION PLEDGE

### *a. Colson—a "\$2 Million Package"*

In the course of the meetings with Colson in 1970, the milk producers apparently indicated that the entire amount of their "potential" of \$1 million per year (as Semer had put it in 1969) might be translated into financial support for the President. Parr testified before the Select Committee on December 21, 1973 that, in one meeting with Colson, "I just remember a discussion of about a million dollars, and then somebody said \$2 million."<sup>26</sup> According to Parr, Colson said: "[T]his is a \$2 million package."<sup>27</sup>

Parr further testified:

Mr. DORSEN: Do you recall what was said immediately prior to his saying he thought it should be a \$2 million package?

Mr. PARR: The best I can recall is that we were constantly talking about the numerous problems that dairy farmers were having and that is all I can recall about it.<sup>28</sup>

Parr testified that Colson's remark was made in "sort of a jesting manner."<sup>29</sup> However, when asked to explain that testimony, he testified that he based his impression solely upon the fact that Colson was smiling at the time.<sup>30</sup>

The other dairy representatives apparently took the discussion seriously. Testifying before the Select Committee on December 18, 1973—3 days before Parr—Nelson stated that he was present when Parr mentioned to Colson the \$1 and \$2 million figures.

<sup>21</sup> Kalmbach, 17 *Hearings* 7593.

<sup>22</sup> Reeves and Harrison was retained by AMPI as of January 1, 1970.

<sup>23</sup> Kalmbach, 17 *Hearings* 7593. Semer testified that he was told by Gleason sometime in 1970 that he was placed on a White House "black list" in part because of his association with Senator Muskie, then the leading Democratic opponent to the President for the 1972 election. Semer, 16 *Hearings* 7210. In the Select Committee's hearings, documents were disclosed that indicate that Semer was on a White House enemies list. See 4 *Hearings* 1723.

<sup>24</sup> Parr, 15 *Hearings* 6770.

<sup>25</sup> Nelson, 15 *Hearings* 6541.

<sup>26</sup> Parr, 15 *Hearings* 6877.

<sup>27</sup> *Ibid.*; Parr had given the first portion of his testimony to the Select Committee on December 20, 1973.

<sup>28</sup> 15 *Hearings* 6883-84.

<sup>29</sup> Parr, 15 *Hearings* 6877.

<sup>30</sup> Parr, 15 *Hearings* 6878, 6884.

Nelson stated that the two purposes of their meetings with Colson were "[t]o press the position we were seeking to have adopted concerning supports, imports or whatever it would be at the moment, and to get the names of committees."<sup>31</sup> Asked about his intent in discussing contributions with Colson, Nelson testified:

Mr. NELSON. Well, the matter of contributions was discussed on the basis that we wanted to support the President, that we knew we had not in the past, that we wanted to, we had the ability to; and if they would come up with the names of committees, we would go forward and do it.

Mr. WEITZ. Why did you tell Mr. Colson this?

Mr. NELSON. It was our understanding that he also had something to do with fundraising.

Mr. WEITZ. He was certainly aware, was he not, of your intention to contribute and, in fact, of your contributions? Is that your understanding?

Mr. NELSON. Yes, sir; no question about that.

Mr. WEITZ. Did he raise the matter of contribution with you?

Mr. NELSON. Well, he discussed the matter of contributions with us. I will say this, I think in order to be fair, we would have to say that they did not come seeking us, we sought them, because it appeared that we were not going to get anyplace if we did not.<sup>32</sup>

Most significantly, White House aides took the pledge seriously. Henry Cashen (who was Deputy Assistant to the President and, beginning in September 1970, was supposed to assume Colson's responsibility for the dairy co-ops), told the Select Committee staff that Colson told him that the milk producers intended to contribute \$2 million. Haldeman, too, knew of the offer of a \$2 million contribution, although he is not sure who told him.<sup>33</sup> Haldeman made a point of distinguishing to the Select Committee staff between a pledge and what he understood to be the milk producers "declared intention" to contribute \$2 million.<sup>34</sup> However, at another point in Haldeman's statement to the Select Committee staff, he referred to the dairy producers' "pledge."<sup>35</sup>

### *b. \$2 Million and the Reelection Campaign*

Shortly after the pledge was made to Colson, the White House began preparing for the President's reelection campaign. Not surprisingly, the milk producers and their pledge began receiving a great deal of attention.

Kalmbach testified that in mid-November, 1970, he met with Haldeman to discuss early fundraising for the President's 1972 election.<sup>36</sup> Haldeman stated that he believes Attorney General Mitchell was present at that meeting.<sup>37</sup> Kalmbach was to act as the principal fundraiser,

<sup>31</sup> Nelson, 15 *Hearings* 6541.

<sup>32</sup> 15 *Hearings* 6538.

<sup>33</sup> Haldeman, 16 *Hearings* 7166-67.

<sup>34</sup> Haldeman, 16 *Hearings* 7159.

<sup>35</sup> Haldeman, 16 *Hearings* 7171.

<sup>36</sup> Kalmbach, 17 *Hearings* 7589. Haldeman's logs indicate that he met with Kalmbach in the White House on November 19 and 20, 1970.

<sup>37</sup> Haldeman, 16 *Hearings* 7161.

particularly for large contributions, until a finance chairman for the campaign was to be named in 1972.<sup>38</sup>

Essentially contemporaneous with the Haldeman-Kalmbach meeting were one or more meetings at which the details of the anticipated \$2 million milk producers' contribution was discussed by key White House officials and Republican fundraisers. Kalmbach remembers attending two meetings during the fall of 1970 with the milk producers, the first in October in Colson's office, and the second in November or December in the Madison Hotel.<sup>39</sup> Although the existence of an October meeting cannot be corroborated, it is essentially undisputed that in mid-November (probably November 19) Colson, Kalmbach, and Tom Evans (a former law partner of Mitchell and Nixon and assistant finance chairman for the 1968 Nixon campaign) met with Nelson, Parr, Harrison, and Patrick J. Hillings (of counsel to Harrison's firm) in the Madison Hotel.<sup>40</sup> Since it was understood that the trusts were reporting their contributions to the Clerk of the House, the discussion centered on the way in which, despite these reports, publicity in connection with the anticipated \$2 million contribution could be avoided.<sup>41</sup> Kalmbach testified: "We were trying to develop a procedure . . . where they could meet their independent reporting requirements and still not result in disclosure."<sup>42</sup>

The result arrived at was for the milk producers to break down the \$2 million into numerous smaller contributions to multiple committees in various States which could then hold the money for the President's reelection campaign. In that fashion, the milk producers could report the contributions, including information on the recipient committees, without the ultimate beneficiary, the President's campaign, being disclosed.<sup>43</sup>

Nelson said that he realized several hundred committees would be needed for such a large contribution, particularly in view of the \$2,500 limit per committee per year placed by his lawyers, Harrison and Hillings, on the contributions.<sup>44</sup> Kalmbach testified that this use of multiple committees was not unusual—even 750 or 1,000 committees would not have been too many, if needed to accommodate a large contributor like the milk producers.

Kalmbach is sure that he reported the substance of these meetings in October and November, 1970 to Haldeman. This is corroborated by Haldeman's statement that he was aware of the expected contribution. Following the meeting, there was a period of several months during which no substantial progress was made in forming the committees and

<sup>38</sup> Kalmbach, 17 *Hearings* 7589-90.

<sup>39</sup> Kalmbach, 17 *Hearings* 7590-92.

<sup>40</sup> The Select Committee staff first received testimony about this meeting on December 4, 1973, from Marion Harrison. See Harrison, 14 *Hearings* 6257-59. The Select Committee has fixed the date of the meeting in the following manner: Kalmbach does not remember any instance in which he stayed in a Washington hotel other than the Madison Hotel. The records of the Madison Hotel for November 1970, subpoenaed by the Select Committee, indicate that Nelson rented a suite of three rooms for the night of the 18th. Kalmbach two rooms for the 18th and 19th, and Evans one room for the 18th. There were no rentals recorded for those persons at any other time that month. Nelson testified that the meeting took place immediately after a meeting between Nelson and Secretary Hardin. Since the staff has uncovered a letter from Harrison to a USDA official dated November 20, 1970, apparently referring to such a meeting on the morning of November 19, 1970, the November meeting in the Madison Hotel appears to have taken place on the 19th.

<sup>41</sup> Kalmbach, 17 *Hearings* 7592.

<sup>42</sup> Kalmbach, 17 *Hearings* 7593.

<sup>43</sup> *Ibid.*

<sup>44</sup> Nelson, 15 *Hearings* 6536. According to Lee Nunn, vice chairman of FCRP, the \$2,500 maximum was set so that in the event the milk producers mistakenly made two contributions to the same committee in one year, they would not violate the \$5,000 limitation in the Corrupt Practices Act. Nunn, 17 *Hearings* 7542.

making the contribution. Activity in that area was increased in March 1971, at the time of the President's deliberations on the milk price support matter, discussed in greater detail in section IV.

## B. CONTACTS WITH THE PRESIDENT—THE \$2 MILLION PLEDGE

Haldeman conceded to the Select Committee staff: "[O]bviously an offer of a \$2 million contribution is a matter of interest . . . And the question, if not spoken, automatically arises as to why."<sup>45</sup> Haldeman went on to say that he was told the money was to be a campaign contribution and not a bribe or a *quid pro quo*. He acknowledged, however, that he was unaware of the meetings between Colson and AMPI in 1970 at which both administration action and campaign contributions were reportedly discussed.<sup>46</sup>

Haldeman also stated :

I have a general belief, assumption, that the President was aware—and I cannot tell you when—that the milk industry had indicated their intention of providing campaign support.<sup>47</sup>

The White House conceded in January 1974, that the President was informed directly by Colson in September 1970, of the \$2 million pledge.<sup>48</sup> Shortly after the pledge was made, AMPI leaders succeeded in obtaining several sought-after goals, including personal contact with the President and favorable action on dairy import quotas.

### 1. PRESIDENT'S CALL TO NELSON

Parr testified that the AMPI leadership had been trying to see the President since the beginning of the administration.<sup>49</sup> Nelson testified that by making contributions, he hoped to get the President to attend AMPI's first annual convention in Chicago in September 1970.<sup>50</sup>

The strategy did not work in 1970. The date of the convention, September 4, 1970, fell at a time when the President was hosting the President of Mexico at San Clemente.

Instead, the President personally called and spoke by telephone to Nelson at the convention.<sup>51</sup> Nelson testified that the President made three points: (1) he told Nelson that he had instructed Secretary of Agriculture Clifford Hardin (who attended the convention in lieu of the President) to announce the renewal of the school milk program; (2) the President expressed his desire to attend AMPI's next convention; and (3) he had talked with Hardin who had suggested that he meet with dairy leaders at the White House. Nelson relayed this information to those present at the convention.<sup>52</sup>

The first personal meeting between AMPI leaders and the President came 5 days later, fulfilling one of AMPI's three "objectives" as stated to Kalmbach the year before.

<sup>45</sup> Haldeman, 16 *Hearings* 7167.

<sup>46</sup> Haldeman, 16 *Hearings* 7166-67.

<sup>47</sup> Haldeman, 16 *Hearings* 7184.

<sup>48</sup> See Section B.2., *infra*.

<sup>49</sup> Parr, 15 *Hearings* 6794.

<sup>50</sup> Nelson, 15 *Hearings* 6539.

<sup>51</sup> The White House White Paper entitled "The Milk Price Support Decision" and released January 8, 1974 (hereafter "White Paper") (a copy of which is printed at 17 *Hearings* 8073-92) terms the call a "courtesy call" of a type frequently made by the President.

<sup>52</sup> Nelson, 15 *Hearings* 6550.



## 2. PRESIDENTIAL MEETING WITH NELSON AND PARR

On September 9, 1970, Nelson and Parr met briefly with the President in the Oval Office during an "open hour" reserved for brief courtesy meetings between the President and groups and individuals. Nelson assumes Colson arranged the meeting<sup>53</sup> and Parr believes that Colson was present.<sup>54</sup>

At the meeting, after photographs were taken, Nelson and Parr mentioned their successful convention, and the President told them to work with Hardin in setting up another Presidential meeting with more dairy leaders.<sup>55</sup>

The White Paper says that:

[a]lthough money was not discussed in the meeting . . . it is evident that raising and making political contributions to both Democrats and Republicans were important, continuous and conspicuous activities of the dairymen during 1970, 1971, and 1972.<sup>56</sup>

Colson helped to make this activity conspicuous to the President. The White House has acknowledged that Colson, in a memorandum attached to a briefing paper to the President for the September 9 meeting, asserted that AMPI had pledged \$2 million to the President's 1972 campaign.<sup>57</sup>

The White House, in its White Paper, has stated that it is unknown whether any such pledge was made. It should be noted, however, that the White House has in its possession the Colson memorandum and other evidence, such as a later internal White House memorandum to Haldeman,<sup>58</sup> that specifically discuss the original \$2 million commitment of the milk producers.

The committee's efforts to determine the extent of the knowledge and participation of the President and his aides in this political fundraising effort have been hampered by the refusal of the President to honor the Select Committee's subpoena (as well as numerous informal requests) for White House materials relating to dairy trust political contributions. This refusal has extended even to materials for which no claim of executive privilege (or any other privilege) has been asserted by the President and which have been produced to a private litigant in the course of the suit challenging the President's 1971 price support decision. Some, but by no means all, of these materials have been made public by the parties in connection with that litigation and have thus become available to the committee and are discussed in the course of this report; but the committee cannot determine the extent to which the additional withheld documents would shed further light on Presidential and White House involvement in the matters under investigation.

Even the White House description of withheld documents relating to the milk fund investigation is incomplete. For example, the Colson memorandum to the President for the September 9, 1970, meeting referring to the \$2 million pledge is described by the White House in

<sup>53</sup> Nelson, 15 *Hearings* 6551.

<sup>54</sup> Parr, 15 *Hearings* 6796.

<sup>55</sup> Parr, 15 *Hearings* 6797.

<sup>56</sup> White Paper, p. 8, 17 *Hearings* 8083.

<sup>57</sup> After the Select Committee's Report was prepared, the House Judiciary Committee released a copy of this memo, which is included in Appendix D to this Report.

<sup>58</sup> See Section VI, *infra*.

court papers as follows: <sup>59</sup> "An undated briefing memorandum for the President from a Presidential assistant relating to the referenced meeting."

The White Paper goes on to say that, in the memorandum, Colson suggested that the President acknowledge AMPI's "support." While the Select Committee has no way of verifying the accuracy of the statement, the White Paper assures the public that no suggestion was made in the memo that the President commit himself to do any "substantive act." <sup>60</sup> The White Paper states that no mention of the "asserted pledge" was made during the meeting.

It is interesting to note, however, what was said. Parr is certain he and Nelson told the President that they supported him. In addition to a reference to another meeting with the President and to AMPI's next convention, the President in turn told them: "You people must have a real good organization. I have heard some very good things about it." <sup>61</sup>

Colson's memorandum and the White Paper should be compared with a recent statement by the President on his knowledge of contributions to his campaign. In a Presidential news conference on October 26, 1973, the President made the following statement with respect to his knowledge of particular campaign contributions:

In terms of campaign contributions, I have had a rule, which Mr. Stans and Mr. Kalmbach and Mr. Rebozo and

<sup>59</sup> All committee efforts to obtain from the White House further materials have been unavailing. In *Nader v. Butz* in the Federal District Court for the District of Columbia, the plaintiffs subpoenaed documents from the White House relevant to the 1971 milk price support decision. On December 5, 1973, J. Fred Buzhardt, Special Counsel to the President, filed an affidavit listing the materials covered by the subpoena in two categories: Category I consisted of those items as to which no claim of executive privilege was asserted and copies of which were provided to the parties; category II consisted of documents as to which executive privilege was claimed and copies of which were given to the presiding judge, Judge Jones, *in camera*, for his inspection. See White House Document List, 17 *Hearings* 8094-8107. The judge made no ruling on the applicability of the privilege claim on category II documents.

The White House at first assured the committee that it would produce category I materials to the committee but not category II; therefore, on Dec. 18, 1973, the committee subpoenaed specifically only category II materials from the President. The President refused to comply.

Thereafter, the White House refused to produce for the committee even category I materials. Accordingly, on Jan. 14, 1974, the committee subpoenaed plaintiffs' and defendants' counsel for production of the category I materials and, although they declined to comply because of a previously entered protective order prohibiting release of the materials except in connection with the lawsuit, on Jan. 30, 1974, plaintiffs' counsel did move before Judge Jones for a clarification or modification of the order to permit him to comply with the committee's subpoena.

The committee filed a motion for leave to intervene as *amicus curiae* for purposes of plaintiff's motion, which was granted by Judge Jones, and only the White House—not the parties to the suit—opposed plaintiff's motion and the committee position. Indeed, as the committee argued in its brief, there was no applicable privilege or any other tenable basis to withhold production.

Nonetheless, on March 13, 1974, Judge Jones denied plaintiff's motion and effectively blocked the committee's effort to obtain the materials. Although these nonprivileged materials had already been denied the committee by the President, Judge Jones stated that "whether the President would refuse to turn over the material is unknown." Memorandum and Order at 6, *Nader v. Butz* (March 13, 1974) (Jones, J.). While conceding that the materials were not privileged, he stated that he had the obligation to "consider the integrity of the criminal process . . . with respect to any resulting indictments involving the issuance of milk price orders in 1971" (*Ibid.*)—despite the fact that the materials had already been produced to a private litigant and some of which had even been made public and no indictments had yet been filed. He apparently concluded that he would take no part in ruling on compliance with a valid congressional subpoena. These court papers are reproduced in Part 2 of the committee's appendix of legal documents. Some of the White House materials, sought by the committee and publicly released by the House Judiciary Committee after the drafting of the Select Committee's report are reprinted in Appendix D to this chapter.

<sup>60</sup> It does not define "substantive act" or state whether there was any suggestion in the memo that the President commit himself to any matters such as permitting greater access by the dairy co-ops to the President, scheduling Presidential meetings or Presidential attendance at dairy conventions, and the like. It should be noted that the Federal bribery statute refers to "official" and not "substantive" acts. See 18 U.S.C. § 201(a).

<sup>61</sup> Parr, 15 *Hearings* 6796.

every contributor will agree has been the rule—I have refused always to accept contributions myself. I have refused to have any discussion of contributions. As a matter of fact, my orders to Mr. Stans were that after the campaign was over, I would then send notes of appreciation to those who had contributed, but before the election, I did not want to have any information from anybody with regard to campaign contributions.<sup>62</sup>

### 3. PRESIDENTIAL ACTION ON DAIRY IMPORT QUOTAS

One of AMPI's concerns at the time they met with the President on September 9 was competition from imported dairy products. In December 1970, after the \$2 million pledge had been discussed with Colson and communicated to the President, and after the dairy meeting with the President and additional contacts between dairy leaders and the administration, the President imposed quotas on certain dairy products favorable to the dairy industry.

#### *a. USDA and Tariff Commission Action*<sup>63</sup>

On March 5, 1970, the Department of Agriculture sent a letter to the President recommending a study by the Tariff Commission of imports of certain dairy products. On May 13, the President requested the Tariff Commission to conduct the investigation.

On July 28 and 29, 1970, the Commission held a public hearing on the matter, at which time the Department submitted its views to the Commission. In turn, the Tariff Commission made its recommendation to the President in September 1970.

While the matter was pending before the President, the dairy co-op representatives met with Secretary Hardin on November 19, and were in contact with William Galbraith, Deputy Under Secretary of Agriculture on November 20 with respect to the import quota matter. As noted above the 19th was the same day that Nelson, Parr, Harrison, and Hillings were meeting with Colson, Kalmbach, and Evans to discuss the method of making their \$2 million contribution.

#### *b. Hillings' Letter to the President—Import Quotas and the \$2 Million Pledge*

Harrison testified that the milk producers had been waiting for a Presidential announcement on dairy import quotas for months, but nothing seemed to be forthcoming. Significantly, Harrison said that it appeared to them that Colson, their principal White House contact, was not aiding them in their efforts to secure a favorable decision.<sup>64</sup>

Harrison and Hillings, a friend of the President who had succeeded the President as Congressman from the President's California district, apparently decided to take action by writing a letter to the President. Hillings' letter dated December 16, 1970, began with the following discussion of AMPI contact with, and support of, the President:

<sup>62</sup> Presidential Documents: Richard Nixon, 1973, p. 1292.

<sup>63</sup> The technical material in this subsection is based upon the Response of the U.S. Tariff Commission, signed by Kenneth R. Mason, Secretary, to a request by the Select Committee staff, included at 17 *Hearings* 8108-11.

<sup>64</sup> Harrison, 14 *Hearings* 6261.

This letter discusses a matter of some delicacy and of significant political impact.

Since January 1, my Washington partner Marion Harrison (one of your 1968 Virginia cochairmen) and I have represented Associated Milk Producers, Inc. ("AMPI"). At the White House in September you privately met AMPI's two key leaders, Harold Nelson and Dave Parr. You spoke by telephone from the beach at San Clemente to Secretary Hardin and to Harold Nelson during AMPI's annual convention in Chicago Labor Day weekend. You told Harold of your intent personally to address AMPI's next annual convention (a gathering of almost 30,000 dairy farmers and their families).

AMPI has followed our advice explicitly and will do so in the future. AMPI contributed about \$135,000 to Republican candidates in the 1970 election. We are now working with Tom Evans and Herb Kalmbach in setting up appropriate channels for AMPI to contribute \$2 million for your reelection. AMPI also is funding a special project.<sup>65</sup>

The letter then discussed the import quota matter and urged the President to issue a proclamation adopting the recommendations of the Tariff Commission. The letter was signed "Pat."

The \$2 million pledge was, of course, already known to the President. Neither Hillings nor Harrison nor anyone else connected with AMPI or the White House was able to explain the "special project" mentioned at the end of the third paragraph of the letter.<sup>66</sup>

Hillings said that he did not intend that the letter be given to the President. However, in a memorandum dated December 17, 1970, from a White House staffer, Roger Johnson, to Haldeman, transmitting the letter, Johnson wrote: "Pat Hillings handed me the attached letter and asked that it be directed to the President."<sup>67</sup>

The White Paper states that "President Nixon did not see the letter." It does not say whether or not the President was briefed on the contents of the letter—not an unusual practice, as Ehrlichman pointed out to the Select Committee staff.<sup>68</sup> Haldeman was not able to recall whether the President received such a briefing.<sup>69</sup> In fact, John Brown, a White House employee, in a routing memorandum accompanying the Hillings letter, asked John Campbell (a staff secretary), "to check with Ehrlichman and Colson, to see if this should go in and if so, in what form."<sup>70</sup>

The White Paper states that since the President already knew of the milk producers' pledge at the time of the letter, the only possible relevance of the letter was its effect on the pending import quota matter. Although verifying the \$2 million pledge to the President might bear on subsequent Presidential action in other areas, such as milk price supports, the President's decision on import quotas, alone, would be reason enough to scrutinize the possible ramifications of the Hil-

<sup>65</sup> Nelson exhibit 1, 15 *Hearings* 6701. The committee obtained a copy of this letter from John Dean in connection with his testimony before the committee in June 1973.

<sup>66</sup> Although the Select Committee was thus unable to ascertain with any certainty what was meant by the reference to "special project," AMPI, at Colson's request, began in January 1970 providing money to a Washington public relations firm for White House projects and later paid for the break-in of Dr. Fielding's office. See Sec. V.C. below.

<sup>67</sup> Attachment to Johnson affidavit, 17 *Hearings* 7937.

<sup>68</sup> Ehrlichman, 16 *Hearings* 7380.

<sup>69</sup> Haldeman, 16 *Hearings* 7162.

<sup>70</sup> See Brown memorandum, 17 *Hearings* 8112. This document was obtained from John Dean in connection with his testimony before the committee in June 1973.

lings letter. It is particularly significant in view of the favorable Presidential decision on imports that followed 2 weeks after the letter was delivered.

*c. Presidential Proclamation on Import Quotas*

On December 31, 1970, the President issued a proclamation setting import quotas on the four dairy items under consideration—low-fat cheese, low-fat chocolate crumb, animal feed containing milk, and ice cream.

The White Paper points out that the quota imposed by the President were higher than those recommended by the Tariff Commission. On the other hand, the White Paper fails to point out three significant facts:

- (1) there had been no quotas on these four items prior to the proclamation;
- (2) the Presidential proclamation set quotas for each item substantially below the actual import level for 1970; and
- (3) without quotas, the import level of such items would have continued to increase, according to the Tariff Commission, "at a rapid rate."<sup>71</sup>

The actual import levels for 1969 and 1970, the recommendations of USDA and of the Tariff Commission and the quotas set by the President are as follows:

COMPARISON OF ACTUAL AND RECOMMENDED IMPORT QUOTAS FOR CERTAIN DAIRY PRODUCTS<sup>72</sup>

	Actual		Recommendation		
	1969	1970	USDA	Tariff Commission	President
1. Low-fat cheese <sup>73</sup> -----	3, 000	11, 027	25, 001	100	8, 901
2. Low-fat chocolate <sup>73</sup> -----	477	15, 944	17, 000	0	4, 680
3. Animal feed containing milk <sup>73</sup> -----	9, 693	27, 435	( <sup>73a</sup> )	0	16, 300
4. Ice cream <sup>74</sup> -----	2, 588	8, 006	0	0	431

Nelson noted that there was general satisfaction with the President's proclamation.<sup>75</sup> An AMPI press release, quoting from AMPI President John Butterbrodt, dated January 5, 1971, on the President's import quota decision, concluded: "President Nixon's decision is a step toward more stability in our market that will be remembered and appreciated by dairy farmers."<sup>76</sup>

#### IV. THE 1971 PRICE-SUPPORT DECISION BY THE PRESIDENT, AND DAIRY TRUST CONTRIBUTIONS TO THE PRESIDENT'S CAMPAIGN

National attention was first focused on the dairy co-ops in 1971 in connection with the possible link between an unusual Presidential reversal in March 1971 of a milk price support decision by the Sec-

<sup>71</sup> See Tariff Commission response, *supra*.

<sup>72</sup> *Ibid.*

<sup>73</sup> In thousands of pounds.

<sup>73a</sup> Not specified.

<sup>74</sup> In thousands of gallons.

<sup>75</sup> Nelson, 15 *Hearings* 6545.

<sup>76</sup> Nelson Exhibit 2, 15 *Hearings* 6703.

retary of Agriculture and substantial dairy trust contributions to the President's reelection campaign. As indicated in this report the 1971 decision by the President was just one of a series of favorable administration actions on the milk producers' agenda. Likewise, their 1971 contributions were not their only contributions to the President's 1972 reelection campaign at or about the same time they were seeking favorable action from the administration.

The 1971 decision may be significantly different, however, from these other matters. The White Paper demonstrates that the President himself made the decision after he was reminded by a top aide and by Treasury Secretary Connally of the political contribution activity of the dairy lobby.

The dairymen and certain key Congressmen had pressed the economic case for a price support increase. The President has conceded that, nonetheless, the economic justification for an increase was not a principal consideration in his decision. Rather, he says he made the decision in light of Democratic congressional pressure, to assure himself of the dairymen's support in his upcoming reelection bid.

The President's explanation ignores certain key events contemporaneous to his decision uncovered by the Select Committee which shed light on the type of "support" undertaken by the dairymen. Two days passed between the time the President announced his decision to his top aides on the afternoon of March 23 and the time the increase was announced on March 25. In the interim, a series of meetings and telephone calls took place, initiated by White House officials and, at least in the case of the first meeting, at the direction or with the knowledge of the President, himself. Although administration and dairy officials deny that there was any *quid pro quo* expressed, the apparent thrust of this activity was to notify the dairymen that a price support increase announcement was imminent and to link—at the direction of one of the President's top aides, John Ehrlichman—that announcement to substantial dairy contributions including the reaffirmation of the \$2 million pledge to the President's campaign.

The dairymen obliged. Representatives of the lead co-op, AMPI, first secured commitments from two other dairy co-ops, Mid-Am and DI. This arrangement was confirmed at a late-night meeting on the 24th—arranged by Ehrlichman on the 23d and attended by AMPI's leader, Harold Nelson, his attorney and Nixon associate, Murray Chotiner, and the President's personal attorney and chief fundraiser, Herbert Kalmbach. At the meeting, Kalmbach was informed that the reaffirmation of the \$2 million pledge had already been made and been linked to the announcement. The next day the increase was announced.

That \$2 million constituted one of the three largest and earliest commitments to the President's reelection campaign and a full 5 percent of his projected reelection budget. Moreover, it apparently was promised to be made in monthly installments of \$90,000 beginning on April 1, 1971 (the effective date of the price increase) at a time when the President trailed Senator Muskie by a full 5 percentage points in a leading Presidential poll.

In the days and weeks that followed the President's decision, preparations were finally made to begin contributing the first \$250,000

committed. While the dairymen widely boasted of the success of their contribution activity in securing the Presidential increase, USDA officials—both career employees and political appointees—were shocked and demoralized by the fact and the manner of the reversal by the President.

The discussion of these matters will be presented as follows:

- The decisionmaking process of the Department of Agriculture leading to the Secretary's March 12, 1971, decision not to raise the support level, and thereafter until March 23, when the President reversed the Secretary and took steps to raise the support level (section IV.A.);
- Contacts prior to March 23 between the milk producers and the Department of Agriculture, Members of Congress, the White House (including the President, Ehrlichman, Colson, and other Presidential assistants) and Treasury Secretary Connally (sections IV.B. to E.);
- The events on March 23, including several meetings involving the President that took place on that date (section IV.F.);
- The events on March 24, including pledges to the President's campaign and meetings arranged by Ehrlichman—one attended by himself and Kalmbach, and another by Kalmbach, Nelson, and Chotiner (section IV.G.);
- The March 25 announcement of the President's decision and its aftermath (section IV.H.); and
- An analysis of the White House justification of the President's decision (section IV.I.).

#### A. THE DEPARTMENT OF AGRICULTURE DECISIONMAKING PROCESS PRIOR TO MARCH 23

The Department of Agriculture was presented with dairy industry arguments that a milk price support level of 85 or 90 percent of parity was economically justified. Nonetheless, after several months of deliberation and review at all levels of the Department and other interested agencies, all in accordance with customary and detailed procedures for such matters, the Secretary of Agriculture announced on March 12, 1971, that he would maintain the milk price support level for the April 1, 1971–March 31, 1972 marketing year at 80 percent. Eleven days later, on March 23, the President reversed the Secretary's decision and decided to raise price supports to 85 percent without any notice to or consultation with some of those in the Department normally involved in such determinations.

##### 1. THE MARCH 12 DECISION

The March 12, 1971 decision was made pursuant to the statutory framework for the Federal milk price support program.

##### *a. Statutory Background*

The goal of the Federal milk price support program is "to assure an adequate supply" of milk.<sup>77</sup> To accomplish this, the Secretary of

<sup>77</sup> Section 201 of the Agricultural Act of 1949, as amended in 1970, and applicable in 1971 provides as follows:

The price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply. Such price support shall be provided through purchases of milk and the products of milk. (7 U.S.C. 1446.)

Agriculture is directed by statute to establish each year a milk price support level, or minimum price, which the Government assures that dairy farmers shall receive for their milk used in the manufacture of milk products (manufacturing milk).<sup>78</sup> To assure that milk prices do not fall below that level, the Federal Government, through the Commodity Credit Corporation, (CCC) a part of the Department of Agriculture, purchases milk products (butter, cheese, and dry milk) in the open market when their prices fall to the support level price. By offering to buy at the support price all excess production of manufacturing milk, the Government thereby maintains milk prices at no lower than the support level. In theory, such an assured minimum price will call forth sufficient milk production to meet the statutory goal of "an adequate supply."<sup>79</sup>

The statute restricts the price at which the Secretary may set the support level. The restriction is linked to farmer purchasing power. This relationship is known as "parity." Perhaps the simplest definition of parity was provided by the USDA's chief economist, Dr. Don Paarlberg, who essentially defined it as follows: If a gallon of milk would buy a pair of overalls in the base period, then to be at 100 percent of parity, the price of a gallon of milk should be enough to buy a pair of overalls now.<sup>80</sup>

The parity price concept was first recognized by Congress in the Agricultural Adjustment Act of 1933. The base period is 1910 to 1914.<sup>81</sup> Under section 201 of the Agricultural Act of 1949, as amended in 1970—the applicable statute for the 1971 marketing year—the Secretary was permitted to set the support level at no more than 90 and no less than 75 percent of parity.

The support level is announced as a dollar-and-cents amount for a hundredweight (or 100 pounds) of whole milk. For example, in March 1970—the year before the controversial decision—the price support level was raised from \$4.28 to \$4.66 per hundredweight of milk which was 85 percent of parity.

Section 406 of the 1949 act requires the Secretary, insofar as practicable, to announce the level of support for milk "in advance of the beginning of the marketing year or season."<sup>82</sup> Thereafter, monthly parity prices for milk are computed pursuant to 7 U.S.C. 1301(a) (1). The price support level may be raised at any time during the marketing year; but once announced, the level of support may not be reduced for the duration of the marketing year. Therefore, the Secretary may decide not to increase price supports at the start of the year and then, if circumstances change later in the year and warrant an increase, he can grant it at that time.

#### *b. Preparation for the March 12 Decision*

The official recommendation for a price support level usually is drawn by the Livestock and Dairy Division of the Agricultural Stabilization and Conservation Service (ASCS) of the Department of

<sup>78</sup> The price of drinking milk is not directly supported, but is usually slightly higher than, and to a substantial extent dependent upon, the price of manufacturing milk.

<sup>79</sup> For example, a higher price for milk will tend to cause farmers to reduce the number of cows to be slaughtered for beef, while a lower price may encourage farmers to sell their cows for beef.

<sup>80</sup> See Paarlberg, 16 *Hearings* 7514–15.

<sup>81</sup> See Paarlberg, 16 *Hearings* 7515.

<sup>82</sup> 7 U.S.C. 1426.



Agriculture.<sup>83</sup> Based on economic estimates provided by the Interagency Dairy Estimates Committee<sup>84</sup> and the USDA Department of Agricultural Economics, the ASCS drafts its recommended decision in the form of a docket, which also contains the justification for the recommendation. The docket is then passed up the line before going to the CCC Board of Directors for approval and undergoes "pre-Board clearance" by others in USDA. If it is approved by the CCC Board (usually with the acquiescence of the Secretary, who is a member of the Board), the recommended decision then goes to the Secretary for final action.

The USDA decisionmaking process which led to the setting on March 12 of the 1971-72 milk price support level appears to have been normal in every respect. The process began, as it usually does, a number of months prior to April 1, 1971. On September 25, 1970, Keister Adams, Deputy Director of the Livestock and Dairy Division, wrote a memorandum to Carl Farrington (now deceased), Deputy Administrator of Commodity Operations, recommending keeping the support price level at the \$4.66 level established the previous March.<sup>85</sup>

In the following months, the interagency committee reviewed estimates of milk production and consumption at 75, 80, 85, and 90 percent of parity and at \$4.66 upward in 5-cent increments.<sup>86</sup> It was the unanimous feeling of the committee that the \$4.66 support level should be retained for 1971-72. This conclusion is reflected in a memorandum sent to Kenneth Frick, Administrator of the ASCS, on January 7, 1971.<sup>87</sup> The reasons stated in this memorandum concerned recent increases in milk production and the prospect that an increase in the support level would increase surpluses and costs to the CCC.

Dr. Don Paarlberg, Director of Agricultural Economics at USDA and the Department's chief economist, was in complete agreement with this recommendation. Dr. Paarlberg served at the USDA in the Eisenhower administration (1953-58) as assistant to the Secretary and as Assistant Secretary. He was also Special Assistant to President Eisenhower for economic affairs, with special responsibility in agriculture. In 1971, it was his function as chief agricultural economic advisor in the Agriculture Department to report to and advise the Board of the CCC and the Secretary of Agriculture on actions such as the determination of milk price support levels.

In their deliberations, the experts considered the arguments advanced by both industry and congressional leaders to justify a price support increase on economic grounds. By early 1971, rising costs to farmers (including feed costs resulting from a corn blight in 1970) had caused the \$4.66 level to fall from 85 percent to approximately 80 percent of parity, perhaps endangering farmer income and milk supply. However, Paarlberg and others were concerned that since production of dairy products was rising, further increase in the price

<sup>83</sup> An organization chart of the relevant divisions in the Department in March, 1971 is included at 17 *Hearings* 8113.

<sup>84</sup> In 1971, the committee was composed of members of the Economic Research Service of USDA and members of the ASCS, the Foreign Agricultural Service and Export Marketing Service. Its economists included Sidney Cohen, Chief of the Program Development Branch of the Livestock and Dairy Division, his chief aide, S. E. T. Bogen, USDA Economics and Statistical Analyst Anthony Mathis and Keister Adams, Deputy Director of the Livestock and Dairy Division, as chairman.

<sup>85</sup> Adams memorandum, 17 *Hearings* 8114-16.

<sup>86</sup> Several of these studies still in existence are included as Exhibit B to the Cohen Affidavit, 17 *Hearings* 7866-72.

<sup>87</sup> Farrington memorandum, 17 *Hearings* 8117-26.

support level might stimulate production, reduce consumption, and be excessively costly to the Government.

Moreover, departmental experts did not believe that a reduction in the parity level necessarily signaled a fall in farmer income. Paarlberg pointed out to the Select Committee that greater productivity of dairy farmers, experienced in recent years, has offset a decrease in parity, so that farmer income has remained constant or has risen.<sup>88</sup> In terms of the statute, the Department of Agriculture did not consider an increase necessary to "assure an adequate supply."

Based on these recommendations and considerations, and after consultation with his superiors, Livestock and Dairy Division Director Reuben Jones and Keister Adams, Sidney Cohen, who had responsibility for preparing the docket, did so, recommending the \$4.66 figure and supporting it with a four-page justification. The docket was approved by Jones, Kenneth Frick, Administrator of ASCS and Executive Vice President of CCC, and the General Counsel and Budget Division of USDA.

The docket was then ready for CCC Board action. Fully cognizant of the arguments advanced by the dairy co-ops and Members of Congress in favor of an increase, Board members, including Secretary Hardin, Under Secretary J. Phil Campbell, Assistant Secretaries Clarence Palmby and Richard Lyng, and Frick and Paarlberg, appear to have unanimously favored the \$4.66 level. At its meeting on March 3, 1971, the Board approved the docket.

Secretary Hardin has stated in a sworn affidavit that the March 12 decision "was the subject of major controversy even before it was made."<sup>89</sup> The Select Committee has found no corroboration for this statement with respect to those within the Department, including the Secretary, who unanimously favored maintaining the existing price support level.

Under Secretary J. Phil Campbell has stated to the Select Committee staff that, to his knowledge, there was no major controversy in deciding upon the March 12, 1971, price support level. Further, Palmby, Secretary Hardin's liaison to the ASCS, has testified that although Secretary Hardin may have "anguished" over the decision, Palmby was not aware of any substantial controversy within the Department of Agriculture as to the price support level.<sup>90</sup> Similarly, no other USDA employee or official corroborated Hardin's account.

Whatever his "anguish," Hardin opposed an increase on economic grounds. Dr. Paarlberg, a longtime friend and associate of Hardin, testified that he believed Hardin—in addition to issuing the March 12 decision—fully supported it.<sup>91</sup> This is consistent with the President's own statement that Hardin told the President in early March that the price of \$4.66 was high enough and should not be raised.<sup>92</sup>

<sup>88</sup> Paarlberg, 16 *Hearings* 7527.

<sup>89</sup> In his affidavit filed with the Clerk of the District Court of the District of Columbia on March 13, 1972, in *Nader v. Butz*, Hardin stated as follows:

The initial determination of the level of price supports for milk as announced on Mar. 12, 1971, was the subject of major controversy, even before it was made, 17 *Hearings* 7917.

<sup>90</sup> Palmby, 16 *Hearings* 7133.

<sup>91</sup> Paarlberg, 16 *Hearings* 7516.

<sup>92</sup> See Section IV.C.1(b), below.

*c. The March 12 Decision*

On March 12, 1971, the Department announced Secretary Hardin's decision to retain the price support level at \$4.66. In the announcement, he noted that some dairymen favored an increase.<sup>93</sup> He stated, however, that in 1970, he had granted the largest increase ever at the beginning of a marketing year and that production had subsequently risen. He went on to say:

[A]fter careful review of the situation and the provisions of the law, Secretary Hardin declared that he felt today's action was in the long-term best interests of the dairy producers.

The longtime well-being of dairymen . . . requires that prices be kept at levels which will permit the overwhelming proportion of milk to clear through commercial markets. Dairymen, like all farm producers, are faced with increased costs. But they know from past experience that they do not benefit when dairy production substantially exceeds demand and excessive surpluses pile up in Government warehouses. We must avoid this.<sup>94</sup>

In the same press release, the Secretary also announced two actions favorable to the dairy industry that had been sought by industry leaders: The Department was going to undertake additional purchases of cheese for USDA food programs by which the market price for milk was expected to be "strengthened." In addition, it was announced that the President had directed the Tariff Commission to conduct an "immediate investigation" of certain cheese imports with a view to limiting foreign competition for domestic cheese.

2. USDA INACTION FROM MARCH 12 TO MARCH 23

The USDA decisionmaking processes for setting milk price supports in March 1971 ended with the March 12 decision. In fact, except for a few meetings with dairy leaders, no one at the Department, other than Secretary Hardin and Under Secretary Campbell, took any part in a reconsideration of the matter between March 12 and March 23, when the President made his decision.

Assistant Secretary Palmby has sworn that there was no awareness or feeling on his part that the price-support level announced on March 12 would be changed and that he was not aware before March 23 of any discussions toward raising the price-support level at the Department of Agriculture.<sup>95</sup> Palmby summarized his rôle by stating: "I was part of the March 12 announcement. I was not part of the later announcement."<sup>96</sup> In a similar vein, Assistant Secretary Richard Lyng has told the Select Committee staff that his first knowledge of the reversal came shortly before the reversal was announced on March 25,

<sup>93</sup> Land-O-Lakes, for one, had opposed an increase.

<sup>94</sup> March 12 USDA press release, part of exhibit A to Cohen affidavit, 17 *Hearings* 7852.

<sup>95</sup> Palmby, 16 *Hearings* 7138.

<sup>96</sup> Palmby, 16 *Hearings* 7145.

when he was asked to prepare a press release announcing the new level.

Lyng and Palmby's versions, received by the committee in October 1973 and January 1974, directly conflict with Secretary Hardin's previously noted affidavit, in which he stated:

During the course of reevaluating the evidence, I had discussions and advice from members of my staff, including Under Secretary Campbell, Assistant Secretary Lyng, and Assistant Secretary Palmby.<sup>97</sup>

As late as March 22, 1971—the day before it was reversed—Under Secretary Campbell was publicly backing the March 12 decision. In a speech on that date in State College, Pa., he emphasized the dangers of overproduction in the milk market. He stated:

I must urge dairymen not to be their own worst enemies and push for higher supports at this time. Let's watch the situation carefully for the next few months until we get a clearer picture as to whether a new trend of increased production is becoming established.

Paarlberg testified that on March 22 or 23 he congratulated Campbell on the speech. Only then did Paarlberg receive some inkling of a possible reversal when, according to Paarlberg, Campbell replied: "It might not stick."<sup>98</sup> To Paarlberg's knowledge, no one at ASCS or in Agricultural Economics had been consulted between the 12th and that time. All ASCS and other USDA officials and employees interviewed by the Select Committee corroborated this.

In fact, those principally responsible for securing a Presidential reversal were affiliated with the milk producers' lobby, certain Members of Congress and, ultimately, the Treasury Secretary and the White House.

## B. MILK PRODUCERS' ACTIVITY PRIOR TO MARCH 23

The milk producers' strategy to secure a price support increase for 1971 was essentially twofold: to try to convince officials at the Department of Agriculture to grant the increase, and to enlist the support of Congress in securing an administrative increase; if that failed, to try to secure a legislative increase. As discussed below, the first part of the strategy failed when Secretary Hardin denied any increase on March 12; the second was partially successful up to a point, but was then abandoned when a Presidential increase was secured.

### 1. PRESENTATIONS TO USDA

#### *a. Pre-March 12*

According to Mid-Am's official, Gary Hanman, the systematic effort by the dairy industry to secure price support increases dated back to at least 1964 or 1965.<sup>99</sup> Those efforts usually included the preparation by industry economists and submission to USDA of economic data supporting an increase.

<sup>97</sup> Hardin affidavit, 17 *Hearings* 7918-19.

<sup>98</sup> Paarlberg, 16 *Hearings* 7521.

<sup>99</sup> Hanman, 14 *Hearings* 5869.

In that regard, the effort for a 1971 increase was no different than in the past. In late 1970, several months before the scheduled decision, economists for the dairy co-ops began preparing an economic presentation in their effort to obtain a price support level at 90 percent of parity. The dairy co-ops also encouraged and supervised an extensive campaign of letterwriting by dairy farmers to the USDA requesting an increase in price supports.

Contributing to these studies in 1971 were Parr's staff economists, including Tom Townsend.<sup>1</sup> The document was reviewed and edited by Dr. George Mehren,<sup>2</sup> who had been a consultant to AMPI after leaving his post as an Assistant Secretary at the Department of Agriculture in 1968.

The principal submission, entitled "The Dairy Industry and the Public Interest: The Need for a Price Support Increase," dated February 24, 1971, and signed by Associated Dairymen (an amalgam of the three co-ops)<sup>3</sup> was presented to Secretary Hardin and Under Secretary Campbell by Nelson, Parr, and Hanman in a meeting prior to the March 12 decision.<sup>4</sup> Both in the written document and in their oral briefings of these and other USDA officials, the co-op leaders presented all their principal economic arguments for an increase including one based on a rise in feed costs to farmers and a drop in farmer income.<sup>5</sup> As noted above, USDA officials and the Secretary, in his March 12 announcement, took into consideration the arguments relating to increased feed and other farmer costs before deciding that a price increase was not merited.

#### *b. March 12-23*

Following the Secretary's March 12 decision, Hanman and others met on March 15 with Secretary Hardin and "his staff" at USDA<sup>6</sup> where Hardin defended his decision and stressed what he believed to be the additional cost to the Government of the requested increase.<sup>7</sup>

Hanman, in his testimony in executive session before the Select Committee on November 13, 1973, acknowledged that the co-ops had already presented to USDA prior to March 12 all relevant economic data justifying an increase in their possession and that there was nothing new to submit in their meeting on the 15th.<sup>8</sup> Hanman said that they tried to prevail upon USDA officials to change their minds.<sup>9</sup> The Department officials, fully familiar prior to March 12 with the position and arguments of the dairy co-ops as well as of Members of Congress, apparently were not moved by these industry efforts. In fact, the Select Committee uncovered no evidence of any departmental review of the economic data between the 12th and the 23d.

## 2. EFFORTS TO SECURE CONGRESSIONAL SUPPORT

The dairy leaders had, throughout the early months of 1971, also devoted substantial effort to securing congressional support with the

<sup>1</sup> Townsend, 14 *Hearings* 6304-05.

<sup>2</sup> Mehren, 16 *Hearings* 7233-34, 7240.

<sup>3</sup> Townsend exhibit 3, 14 *Hearings* 6332-62.

<sup>4</sup> Hanman, 14 *Hearings* 5871.

<sup>5</sup> Parr, 15 *Hearings* 6801; Townsend Exhibit 3, pp. 8-9, 14 *Hearings* 6340, 6343.

<sup>6</sup> Hanman, 14 *Hearings* 5872.

<sup>7</sup> See Hanman letter, 17 *Hearings* 8127.

<sup>8</sup> Hanman, 14 *Hearings* 5872-74.

<sup>9</sup> Hanman, 14 *Hearings* 5874.

object of bringing pressure to bear on the administration for an administrative increase. The co-op leaders organized letterwriting campaigns of their member farmers to their Congressmen and Senators resulting in an outpouring of thousands of letters urging a 90 percent price support level. Visits by hundreds of dairy farmers to their Congressmen and Senators were also arranged.<sup>10</sup> Many of the Members of Congress contacted passed their constituents' requests on to USDA. In addition, between the end of January and March 23, the date of the President's decision, 29 Senators and 88 Congressmen expressed their views to the administration by correspondence primarily to the Department of Agriculture, virtually all requesting an increase in the price support level to 90 percent of parity.

AMPI, DI, and Mid-Am were the "prime movers" in these efforts<sup>11</sup> and their leaders took a leading role. Bob Lilly was one of those principally responsible for this effort.<sup>12</sup> Drawing on his political experience at the State and congressional level, Lilly helped direct the program of co-op employees and members contacting those Members of Congress with whom they were familiar.

Prior to March 12, the principal aim of these contacts was to gain congressional support in convincing the administration to grant an increase. On February 10, 1971, Nelson, Parr, and Townsend of AMPI met with Speaker Albert, Congressman Mills, and John Byrne (R., Wis.), William Galbraith (USDA congressional liaison) and Clark MacGregor (Counsel to the President for Congressional Relations) in the Speaker's office.<sup>13</sup> They discussed three or four substantive programs, including price supports.<sup>14</sup> Presumably, one of the purposes of the meeting was to indicate to the administration the industry and congressional support for a price support increase.

Speaker Albert and Congressman Mills communicated their views to other administration officials, as well. Connally testified that he spoke with Mills several times about this matter.<sup>15</sup> The Director of the Office of Management and Budget, George Shultz, told the Select Committee staff in a November 21, 1973, interview that Mills contacted him twice prior to March 12 to argue that an increase would not lead to overproduction.<sup>16</sup> According to Shultz, he received a similar message from Speaker Albert sometime after March 12.

Thus, the administration was aware, prior to March 12, of congressional support for a price support increase to as much as 90 percent of parity. Nonetheless, based on a careful review of the statutory criteria, the Secretary refused to grant an increase.

Following March 12, the efforts of the dairy industry on the Hill increased. Between March 12 and 23, bills to raise the support level to a minimum of 85 percent for 1 year beginning April 1, 1971, were introduced and sponsored by a total of 88 Congressmen and up to 29 Senators, mostly from farm States. Two Congressmen introduced bills to

<sup>10</sup> Nelson, 15 *Hearings* 6551-55; Mehren, 16 *Hearings* 7233.

<sup>11</sup> Nelson, 15 *Hearings* 6552.

<sup>12</sup> Lilly, 14 *Hearings* 5985.

<sup>13</sup> The White Paper discusses the meeting, but omits any reference to the presence of Townsend. However, he testified that he was present. Townsend, 16 *Hearings* 7118.

<sup>14</sup> Townsend, 16 *Hearings* 7119.

<sup>15</sup> Connally, 14 *Hearings* 6087.

<sup>16</sup> Shultz sent a memo to Ehrlichman notifying him of one of the Mills calls. Shultz memorandum, 17 *Hearings* 8128. However, Shultz says he was still convinced that an increase was not warranted.

The White Paper states that "[a]ccording to Mr. MacGregor's records, Congressman Mills urged him six times in February and early March to urge the President to raise the support level." White Paper, 17 *Hearings* 8076.

raise the support level to 90 percent. A more detailed analysis of the extent of such congressional activity is presented below in section IV.I.

Before any hearings were held on these bills, the President reversed the Secretary's March 12 decision, granting the same relief as did most of the pending legislation—85 percent for 1 year. (In fact, as explained in section IV.I.1d, the President's action was more favorable to the industry than was the proposed legislation.) Even before the actual reversal, however, there is evidence, discussed below, that AMPI, because of communications with the White House and other top officials, had abandoned its effort to secure legislation and focused on its effort to secure an administrative increase—from the President.

Before turning to these matters, a comment is in order with respect to the milk producers' contacts with Members of Congress. The White Paper notes that many of the Senators and Congressmen who supported milk price legislation in 1971 received contributions from the dairy industry in 1972. The White House offers no evidence and does not argue that there is any direct connection between the introduction of such legislation and these contributions, which were made more than a year after the 1971 decision and which were publicly filed. Indeed, as the White Paper admits, the dairy industry also contributed to Senate and congressional candidates who did *not* sponsor such legislation.<sup>17</sup> In any event, whatever the reasons for congressional contributions either before or after March 1971, the fundamental questions to which the White Paper—and the Select Committee's mandated investigation—are addressed, remain: Was the President's decision "influenced" by or made in contemplation of contributions by the dairy industry to his 1972 Presidential campaign? Were the dairy contributions solicited, made or received by the President's aides, campaign officials and/or the dairy lobby "for or because of" the price support decision?<sup>18</sup> If so, did the President solicit or accept the dairy contributions with the knowledge that they were made for that reason, no matter what the basis for the President's decision?

### C. WHITE HOUSE INVOLVEMENT PRIOR TO MARCH 23

In the Nixon administration, there was a standing instruction from the President: With respect to any major commodity decision by the Department of Agriculture, such as setting the milk price support level, there was to be no final decision without review of the proposed decision by the Office of Management and Budget (OMB) and the Council of Economic Advisers (CEA) at least 10 days prior to the public announcement.<sup>19</sup> In the case of Secretary Hardin's March 12 announcement, such review was undertaken. In addition, top Presidential advisers, as well as the President himself, were involved in the decisionmaking process both prior to March 12 and between March 12 and 23.

#### 1. MARCH 12 DECISION

##### a. OMB and CEA Review

Consistent with the President's rule, Secretary Hardin's proposed decision was forwarded on or about March 1, 1971, to Dr. Don Rice,

<sup>17</sup> In 1972, for example, the dairy trusts contributed approximately \$293,000 to co-sponsors of price support legislation, but at least another \$500,000 to committees for congressional candidates without regard to their sponsorship of such legislation.

<sup>18</sup> See 18 U.S.C. § 201 (c), (f).

<sup>19</sup> Rice Interview, March 4, 1974.

Assistant Director of OMB with responsibility for USDA and several other departments and agencies. Rice assumes that he received the proposed decision, plus supporting material, from Hardin, Campbell or Palmby. Rice said that he presumably sent a copy of the material to Gary Seavers, his counterpart at CEA (and now a Council member).

According to Rice, he wrote a memorandum, probably dated March 3, 1971,<sup>20</sup> recommending no increase in price supports. CEA was in agreement. Apparently, Shultz asked Rice for more information and on March 5, Rice wrote a follow-up memorandum in which he strongly supported Hardin's position.<sup>21</sup> He noted in the memo that Hardin and Campbell were also in favor of holding the line, although Hardin was a bit "skiddish"—not because of the economic arguments but because of the political pressure being exerted by the co-ops. As a result, Hardin wanted the President himself to approve the decision. Rice sent copies of his memorandum to Ehrlichman and other Presidential assistants, presumably including John Whitaker, an aide to Ehrlichman with the title of Assistant Director to the Domestic Council for Natural Resources and the Environment (including agriculture).

### *b. Presidential Review*

On the basis of the evidence gathered by the Select Committee, it appears that the President was consulted and did approve Secretary Hardin's proposed decision not to raise the support level. Ehrlichman stated to the Select Committee staff in a February 8, 1974, interview that he assumes the President was briefed on the proposed decision. Ehrlichman explained: "That's ordinarily the kind of thing that ordinarily he would be told about."<sup>22</sup>

Rice stated that based on several factors he believed that the President approved the proposed decision before it was announced. First, a Cabinet officer's request (such as Hardin's) for Presidential review would ordinarily be honored. Second, two documents identified by the White House indicate direct Presidential involvement—one from Shultz to the President, dated March 9, and the other from Shultz to the White House staff secretary, dated March 20, reporting on a meeting with the President of March 5, 1971 with various government officials and covering a wide variety of subjects, one of which related to dairy prices.<sup>23</sup>

The President himself has confirmed that he was directly involved in the first decision. In his press conference of November 17, 1973, at the conference of AP managing editors, the President stated the method in which the decision was made. He said in part:

I will tell you how it happened. I was there. Cliff Hardin, in the spring of that year, came in and said, "The milk support

<sup>20</sup> Memorandums between OMB, CEA, and White House officials during March 1971, are listed in the White House Custodian of Records' affidavit in *Nader v. Butz*, 17 *Hearings* 8094-8107. As described above, the President has refused to comply with a Select Committee subpoena for these documents. After the preparation of the Select Committee's Report, copies of these documents were released by the House Judiciary Committee and are included in appendix D to this report.

<sup>21</sup> In particular, Rice told the Select Committee staff that increased productivity offset rising prices and obviated the need for an increase in the support price. Although the dairy industry and certain Members of Congress disagreed, this view was consistent with Paarlberg's (and the entire Department's) economic analysis. See section IV.A.1.b., *supra*.

<sup>22</sup> Ehrlichman, 16 *Hearings* 7381.

<sup>23</sup> Items 29 and 57 in the White House list of documents, 17 *Hearings* 8101, 8105. After the preparation of the Select Committee's Report, copies of these documents were released by the House Judiciary Committee and are included in Appendix D to this Report.



prices are high enough." I said, "All right, Cliff, that is your recommendation, the Department of Agriculture?" He said, "Yes."<sup>24</sup>

Apparently, then, as of March 12, there was unanimous agreement among Secretary Hardin, his entire staff, Director Shultz and his staff, CEA and the President that milk price supports should not be raised in March 1971.

## 2. MARCH 12-23

With Hardin (but not the President) publicly committed to no price support increase, AMPI considered that the best chance for an administrative increase lay with the White House and the President. Of significant help to AMPI in contacting top White House officials, such as John Ehrlichman, was Murray Chotiner.

### *a. Murray Chotiner*

Murray Chotiner was a long-time friend and political adviser to the President. He became, in 1969, General Counsel to the Special Representative for Trade Negotiations in the White House and, in January 1970, Special Counsel to the President.<sup>25</sup>

Chotiner stated that, in 1970, Harrison introduced some co-op leaders to him, but that they did not discuss any substantive matters or the subject of political contributions with him while he was in the White House. It appears, however, that Chotiner was involved in dairy efforts in the areas of import quotas and price supports while on the White House staff. Nelson believes they discussed one or both matters with Chotiner.<sup>26</sup> Moreover, the Select Committee has received testimony and documentary evidence that dairy documents on import quotas were circulated to Chotiner in 1970 prior to the President's favorable decision.<sup>27</sup>

On March 5, 1971, Chotiner left the White House and, on March 8, became "of counsel" to Reeves and Harrison becoming, with Harrison, the milk producers' key representatives to the White House on price supports. At the same time, the firm's annual retainer from AMPI was increased from approximately \$40,000 to approximately \$108,000, in part to pay Chotiner's salary. In addition, AMPI agreed to pay some of the costs of Chotiner's office furniture and fixtures.<sup>28</sup>

Chotiner stated that he spoke to Ehrlichman at the Gridiron Club dinner on March 13, as well as to Whitaker, Colson, and Cashen between March 12 and 25. At the same time, Harrison sent letters to Colson and Whitaker.

Their message was primarily political. Chotiner told each White House official that the President had to carry the Midwest to win the next election. He added that the farm vote was necessary to carry the Midwest and that the administration therefore had to do what was

<sup>24</sup> Presidential Documents: Richard Nixon, 1973, at 1355.

<sup>25</sup> Mr. Chotiner died on January 30, 1974, before the Select Committee was able to take Mr. Chotiner's testimony in executive session. Summaries of staff interviews on December 7 and 10, 1973, with Mr. Chotiner are included as Exhibits to the Weltz Affidavit, 17 *Hearings* 8002-11. In those staff interviews, Chotiner revealed for the first time to Watergate investigators the fact of his meeting with Colson on March 23 and the March 24 meeting with Kalmbach and Nelson. See sections IV. F. and G., below.

<sup>26</sup> Nelson, 15 *Hearings* 6555.

<sup>27</sup> Townsend, 14 *Hearings* 6297; Townsend Exhibit 1, 14 *Hearings* 6328.

<sup>28</sup> Harrison, 14 *Hearings* 6249.

necessary to satisfy the farmers. Since the Democrats in Congress were supporting a price support increase, he contended that it would be silly for the administration to sit back and let the Democratic Congress take credit for an increase.

Harrison wrote a letter, dated March 19, to Whitaker on the subject of "85 percent of Parity for Dairy Industry April 1, 1971." After some background information, Harrison set forth the following considerations:

*Economic considerations.* This is a political question and requires a political answer. To more than review economic considerations is dangerous. However, there is no economic problem. USDA's own figures show that total dairy product consumption increased 1.6 percent during the third quarter 1970 over the third quarter 1969 and increased 0.8 percent in the fourth quarter 1970 over the fourth quarter 1969. USDA's figures show further that consumption dropped in 1968 and 1969 and then dramatically turned around, rising 0.4 percent in 1970. Thus, the contention that maintaining 85 percent of parity would result in over production and decreased consumption is proved erroneous by use of USDA's own figures. In addition, for the past 7 years, USDA's figures have had to be adjusted about 6 months after their publication, the adjustment usually resulting in higher consumption and lower production figures. Hence, the announced increase for the third and fourth quarters of 1970 is very likely actually to be greater when the final figures are analyzed.

*Political considerations.* Dairy industry leadership has been very materially assisting the Nixon administration tangibly and intangibly. Farmers voted Democratic in 1970, principally on economic grounds. Since then the Administration was beginning to project a more decisive pro-agriculture image. To reduce parity now is to undo the good which was being done. To reduce parity now and then attempt to increase it effective April 1, 1972 is political dynamite because (1) the purpose would be transparent and (2) the increase at that time would result in a price increase to consumers (which it would not if parity were set at \$5.05 for April 1, 1971 and continued at \$5.05 for April 1, 1972). The increase—if there is to be one—must come, or at least be announced, within the next few weeks. There is strong Democratic support on the Hill, apparently led by Speaker Albert, to legislate 85 percent. This may be in attempt to sandbag the President, ruining him with dairy farmers if he opposes or vetoes the bill, giving the Democrats credit if he signs it or administratively raises parity. Ironically, until March 12, the dairy industry has gotten from this Administration substantially what it wanted although, unfortunately, always after a vigorous effort.

The letter concluded:

*Conclusion.* For political, if no other reasons, parity must again be set at 85 percent, even if the President has to do it. *The President's name, not the Secretary's is on the ballot.*<sup>29</sup>

<sup>29</sup> Nelson Exhibit 8, 15 *Hearings* 6715. (Emphasis in the original.)

In a letter to Colson, Harrison assured him that 85 percent of parity was, except for cheese purchases, "the last major item the industry will request for some time to come."<sup>30</sup>

Later in March, Chotiner figured in a key call to Nelson and a meeting linking milk producer contributions to the announcement of the President's decision. (See Sections IV. F and G, below.)

### *b. John Ehrlichman*

Ehrlichman was the President's Chief Advisor for Domestic Affairs. Ehrlichman stated that Whitaker probably brought the price support matter to his attention prior to March 12. He was, as we have already discussed, also aware prior to 1971 of the \$100,000 political contribution by the milk producers in 1969.

Ehrlichman's dual role as an advisor both on the substantive policy question of the milk price support decision and campaign activities continued during the March 12 to 23 period. His discussion with Chotiner on milk price supports took place on the 13th.<sup>31</sup> The previous day, the 12th, his logs indicate that he lunched with Kalmbach and on March 18, his logs indicate two meetings on "campaign spending," with several individuals including John Dean.

#### *(1) Meeting on March 19*

On March 19, Ehrlichman held a meeting in his office, attended by Hardin, Shultz, Whitaker, Rice, Cashen, and Richard Cook (a White House congressional liaison), to discuss the milk price support decision in the face of industry and congressional pressure for an increase. The discussion apparently included reference to contributions and the scheduled March 23 meeting between the President and dairy leaders.

A briefing paper for the meeting (written by either Rice or Whitaker) had been prepared and distributed.<sup>32</sup> Ehrlichman stated that, whether or not it was mentioned in the document, there was a discussion at the meeting of interest group politics and congressional politics, although he could not remember anything more specific.<sup>33</sup>

Furthermore, according to Cashen, there may have been some statement at the meeting that if the decision were negative, the contributions from the milk producers might not be forthcoming. Cashen hastened to add, in the staff interview, that no one present at the meeting appeared concerned about the contributions.<sup>34</sup>

By the 19th, the meeting between the dairy leaders and the President on the 23d had already been scheduled.<sup>35</sup> There was a discussion at the March 19 conference of the upcoming meeting—whether it should be held and, if so, what to do in the interim on price supports. According to Rice, it was decided to "tough it out" at least through

<sup>30</sup> Nelson Exhibit 7, 15 *Hearings* 6711. As noted above the Secretary, also on March 12, indicated that favorable action was going to be taken in the area of cheese purchases. See Section IV.A, *supra*.

<sup>31</sup> Ehrlichman did not recall talking to Chotiner about milk supports. However, he did recall attending every Gridiron Club dinner while he was in Washington. Ehrlichman, 16 *Hearings* 7384–85.

<sup>32</sup> Rice identified it as item 32, dated March 19, 1971, on the White House list of documents, 17 *Hearings* 8102. After the preparation of the Select Committee's report, copies of documents relating to this meeting were released by the House Judiciary Committee and are included in appendix D to the committee's report.

<sup>33</sup> Ehrlichman, 16 *Hearings* 7385.

<sup>34</sup> Cashen interview, February 26, 1974.

<sup>35</sup> See Section IV.F, *infra*.

the meeting, so that the President would be meeting with industry leaders from a posture of strength and not of capitulation.

There the matter ostensibly stood until March 23. But there is some evidence, discussed in the following subsection and in section IV.D., that by the 19th, several milk producer officials believed that the President would reverse the decision after the meeting on the 23d.

(2) *Ehrlichman Call to Parr*

The Select Committee has received testimony from Dwight Morris that on March 18, 1971, John Ehrlichman called David Parr. Morris was, at the time, secretary of the AMPI board and had spent several weeks in Washington in March working with Parr and others to secure price support legislation.

Morris' testimony concerning a phone call to David Parr during that period is set forth in full:

Mr. WEITZ. Now did there come a time when you overheard a telephone conversation between Mr. Parr and someone purportedly from the White House in connection with this effort?

Mr. MORRIS. Yes, there did.

Mr. WEITZ. Could you tell us the circumstances of that?

Mr. MORRIS. Well, the phone rang and Mr. Parr took up the phone and I think I went into the other room and also picked up the phone.

Mr. WEITZ. This was in Washington in a hotel suite?

Mr. MORRIS. That's correct. And listened, and the man on the other end was saying, and I didn't know who he was at that time, and I still really don't know who it was, was saying we want this congressional effort called off. Mr. Parr said, I can't call it off. The man said again, the White House wants this congressional effort called off. And Mr. Parr then said, I can't call it off. The man said, I don't believe you understood me. *The President wants this congressional effort called off.* And Mr. Parr said, I don't believe you understood me. I can't call it off. And then the man from the White House said, *you've heard of the Federal Trade Commission, haven't you?* Mr. Parr said, yes. *You've heard of the Justice Department, haven't you?* Mr. Parr said, yes. And Mr. Parr went on then to say that you just trot them out. We'll meet them any time, any place you say.

Mr. WEITZ. And then he hung up?

Mr. MORRIS. That was—

Mr. WEITZ. Who terminated the conversation? Who hung up?

Mr. MORRIS. I think the man from the White House, if I'm correct.

Mr. WEITZ. How did you know it was a man from the White House?

Mr. MORRIS. That's what Mr. Parr told me later.

Mr. WEITZ. Did he also, to the best of your recollection, tell you who had called?

Mr. MORRIS. *To the best of my recollection, he said it was Mr. Ehrlichman,* but I at that time didn't know Mr. Ehrlich-

man from Mr. Haldeman or Mr. Colson or anybody else, but that's the name I think he used.

Now, Mr. Parr, incidentally, does not recall this conversation which I think he's completely honest in because there were hundreds of calls a day into that place, and at that time we were talking to the White House several times a day.<sup>36</sup>

Mr. Morris went on to testify that by the next day, Friday, March 19, he understood that the President was going to raise the price support level.<sup>37</sup> As a result, he said that there was very little effort the following week (which began just 10 days prior to the start of the new marketing year) to work on the Hill to secure price support legislation.<sup>38</sup>

This testimony about a change in strategy after the 19th is corroborated by the earlier testimony before the Select Committee of Bob Lilly, one of the key AMPI employees responsible for AMPI's legislative effort.<sup>39</sup> Lilly says that he was very upset over this move—not because he thought that the milk producers had sufficient votes in Congress to both pass price support legislation and override a possible Presidential veto; he did not think they did. Instead, he felt it was very impolitic and damaging to milk producer-congressional relations first to ask Members of Congress to take a public stand for price support legislation (in face of administration opposition) and then for the co-ops to abandon the effort in midstream and switch to the Presidential route. Nonetheless, it appears that after the 19th reliance was again placed upon favorable administrative action—this time by the President and not the Secretary of Agriculture.

#### D. MILK PRODUCER CONTACTS WITH JOHN CONNALLY PRIOR TO MARCH 23

John Connally became Secretary of the Treasury in February 1971. As discussed above, Connally testified he had been consulted in 1969 at the time of the formation of TAPE. In March 1971, the milk producers turned to him again, this time for his assistance to secure a price support increase. According to Gary Hanman of Mid-Am, the name Connally was mentioned in milk producer strategy sessions in 1971, since, as he explained, "Texas dairy people"—particularly AMPI attorney Jake Jacobsen—were friendly with Connally.<sup>40</sup>

##### 1. CONTACTS BY JAKE JACOBSEN

Connally and Jacobsen have known each other for 25 years.<sup>41</sup> In 1962 Jacobsen was Price Daniel's campaign manager in his unsuccessful campaign against Connally for the governorship of Texas. After the campaign, Jacobsen became friends with Connally and thereafter the two talked to each other on many occasions.<sup>42</sup>

<sup>36</sup> Morris, 16 *Hearings* 7447-48. (Emphasis added.) Ehrlichman and Parr testified before Morris and did not refer to this conversation.

<sup>37</sup> Morris, 16 *Hearings* 7449.

<sup>38</sup> *Ibid.*

<sup>39</sup> Lilly, 14 *Hearings* 5981, 6141-42. James R. Jones, then one of AMPI's attorneys (and now a Congressman) who was assisting AMPI in this legislative effort, said in a staff interview that he too remembered that the effort was dropped sometime before March 23, when the price support increase was announced.

<sup>40</sup> Hanman, 14 *Hearings* 5875.

<sup>41</sup> Connally, 14 *Hearings* 6052; Jacobsen, 15 *Hearings* 6381.

<sup>42</sup> Jacobsen, 15 *Hearings* 6381; Connally, 14 *Hearings* 6052-53.

Both Connally and Jacobsen testified that Jacobsen talked to Connally twice about the 1971 price support matter—once before March 12 and once after.

Connally's logs reflect four contacts with Jacobsen during the relevant period—a call from Jacobsen on February 25, a meeting among Connally, Jacobsen, and Larry Temple (an Austin lawyer and former Connally aide) on March 4, a meeting between Connally and Jacobsen on March 19 and a call from Jacobsen on March 23.

Connally remembered the first discussion as occurring at a meeting either in late February or early March, presumably on March 4.<sup>43</sup> Jacobsen stated that at the first meeting he explained the problem to Connally. When he asked Connally to use his influence to help the milk producers, Connally responded that he would try to be helpful.<sup>44</sup> Connally testified that he interpreted Jacobsen's request as one for him to contact Hardin.<sup>45</sup>

Connally says that he was sympathetic to the position of the milk producers and, sometime before the 12th, he talked to the President about it.<sup>46</sup> Connally's logs indicate meetings between Connally and the President on March 5 and March 11. The President, in his public statements, has made no reference to any meeting with Connally before the 12th. Since the President has refused to provide the Select Committee with his logs on this subject (which identify the subject matter of his meetings), it has not been possible to determine the date of the pre-March 12 President-Connally discussion on this question.

As discussed in section IV.F, Connally also apparently had several key contacts with the President on March 23 in connection with the price support matter.

## 2. CONTACT WITH BOB LILLY AT PAGE AIRWAYS

In the midst of the milk producer efforts in March 1971 to secure an increase, Bob Lilly apparently encountered Connally in a chance meeting. Although the content and significance of that contact is in dispute, Connally may have given Lilly an important message on the price support matter.

One afternoon in March, Lilly, Nelson, Parr, Tom Townsend, and possibly Lynn Elrod (another AMPI employee) passed Connally's limousine on their way to Page Airways at Washington National Airport to return home by AMPI's private jet. Lilly, Nelson, Parr, and Townsend each remember seeing Connally in his car.<sup>47</sup> William Pleasant, AMPI's hired driver, recalls seeing the car and telling his passengers.<sup>48</sup> They, in turn, instructed him to honk and pull alongside, and Nelson and Parr then waved to Connally.

The AMPI party arrived at Page and, while waiting in the small lobby of Page Airways terminal to depart, saw Connally walking through the lobby. According to those AMPI people present, Lilly went over to speak to Connally. Nelson, Parr, and Townsend recall that Parr tried to follow Lilly and talk to Connally, too, but Nelson restrained him, saying, "No, let Bob go. Bob knows him."<sup>49</sup>

<sup>43</sup> Connally, 14 *Hearings* 6054. The telephone call on Feb. 25 appears to have been made to schedule the Mar. 4 meeting. Jacobsen, 15 *Hearings* 6411.

<sup>44</sup> Jacobsen, 15 *Hearings* 6407.

<sup>45</sup> Connally, 14 *Hearings* 6057.

<sup>46</sup> Connally, 14 *Hearings* 6062.

<sup>47</sup> Lilly, 14 *Hearings* 5979; Nelson, 15 *Hearings* 6617; Parr, 15 *Hearings* 6808; Townsend, 14 *Hearings* 6308-09.

<sup>48</sup> Pleasant Affidavit, 17 *Hearings* 7992-93.

<sup>49</sup> Nelson, 15 *Hearings* 6619-20; Parr, 15 *Hearings* 6811; Townsend, 14 *Hearings* 6310.

Nelson reasoned that because Lilly knew Connally far better than any other AMPI employee present, and Parr hardly knew him at all, Connally might disclose something to Lilly that he might not otherwise say in the presence of a stranger.<sup>50</sup>

According to Lilly, Connally did. Lilly stated that he asked Connally about the chances for an administrative increase in price supports, and Connally replied, "It's in the bag. Pass it on to the others."<sup>51</sup> Lilly says he assumed Connally had personally spoken to the President. Lilly then returned to his group and told them what Connally said. Nelson essentially corroborated Lilly's account and testified that Lilly had said Connally was optimistic about an increase by the President.<sup>52</sup> Although Lilly and Nelson said they told the other AMPI people there, Parr, Townsend, and Elrod state that they do not remember what was reported to them on Lilly's discussion with Connally.<sup>53</sup>

Connally, in sworn testimony before the Select Committee on November 15, 1973 (and supplemented by two affidavits) stated that he did not recall meeting, by chance or otherwise, Bob Lilly or seeing Nelson or other AMPI people at Page Airways during March 1971.<sup>54</sup> He conceded, however, that it is possible that a chance meeting between himself and AMPI people occurred while he was passing through Page Airways,<sup>55</sup> but, he denied communicating to any AMPI representative any optimism on a reversal of the March 12 decision. In fact, he testified that he does not think he discussed the 1971 price support problem with any AMPI representative other than Jacobsen.<sup>56</sup>

Connally also denied knowing Lilly very well and said that he would recognize Parr and Nelson ahead of Lilly.<sup>57</sup> The individuals involved directly disputed that denial and testified that, of those present at the time of the Page Airways meeting, Lilly knew Connally the best. Nelson testified that he had met Connally only three times in his life prior to March 1971.<sup>58</sup> Townsend had never met him and Parr had been introduced to him perhaps twice.<sup>59</sup>

In contrast, Lilly says that, as a State lobbyist for the State Farm Bureau in Texas in the 1960's, he had frequent contact—as often as three or four times a week during State legislative sessions—with Connally, sometimes in personal meetings of a few persons to discuss State legislation.<sup>60</sup> Jacobsen, too, acknowledged that Lilly had spent a great deal of time at the State capital in the 1960's.<sup>61</sup> Lilly's previous contacts with Connally would explain why Lilly, rather than Nelson or Parr, spoke to Connally about the price support matter at the chance meeting at Page Airways. Thus, despite Connally's failure to recollect such a meeting, it appears that the encounter, in fact, occurred, although additional evidence points to the conclusion that Lilly may have been in error as to its date.

<sup>50</sup> Nelson, 15 *Hearings* 6620.

<sup>51</sup> Lilly, 14 *Hearings* 5978.

<sup>52</sup> Nelson, 15 *Hearings* 6620–21.

<sup>53</sup> Parr, 15 *Hearings* 6811; Townsend, 14 *Hearings* 6310–11; Elrod interview, Dec. 6, 1973.

<sup>54</sup> Connally, 14 *Hearings* 6067–68; Connally Affidavits, 14 *Hearings* 6102–04.

<sup>55</sup> Connally Affidavit, 14 *Hearings* 6102.

<sup>56</sup> Connally, 14 *Hearings* 6068.

<sup>57</sup> *Ibid.*

<sup>58</sup> Nelson, 15 *Hearings* 6508.

<sup>59</sup> Parr, 15 *Hearings* 6809–10, 6902.

<sup>60</sup> Lilly, 14 *Hearings* 5978–80; see Lilly Affidavit, Exhibit A, 14 *Hearings* 6221; Nelson, 15 *Hearings* 6619.

<sup>61</sup> Jacobsen, 15 *Hearings* 6460.

Lilly testified that, to the best of his recollection, this discussion with Connally took place on the afternoon of March 19,<sup>62</sup> the day Jacobsen met for a second time with Connally—and Ehrlichman met with Hardin, Shultz, and others. However, Connally testified that he did not leave Washington on March 19,<sup>63</sup> and there is evidence to corroborate that account. Connally's logs show an entry for a dinner that evening at 8 p.m. at the Blair House in Washington given by Vice President Agnew, and the Office of the Chief of Protocol of the Department of State informed the committee staff that according to the guest list for the dinner, Connally did attend the dinner.<sup>64</sup>

Certain evidence in the possession of the committee points to March 5 as the date of the Connally-Lilly conversation. Lilly testified that following the meeting with Connally, the AMPI people flew home—first to Little Rock (for Parr, Townsend, and Elrod) and then to San Antonio (for Nelson and Lilly).<sup>65</sup> There is an entry in the AMPI jet log for a Washington-Little Rock-San Antonio flight on March 5, the only one during that period.<sup>66</sup> Of significance is the fact that the only time in March that Connally's logs show him at Page Airways is March 5.<sup>67</sup>

In any event, Connally did press the milk producers' case to the President, and the possible impact of Connally's role upon the President's decision to increase price supports is discussed below.<sup>68</sup>

#### E. MILK PRODUCER CONTRIBUTION ACTIVITY PRIOR TO MARCH 23

At the same time in 1971 that the milk producers were attempting to secure an increase in milk price supports, efforts were also underway to make contributions to the President's campaign. Although large commitments had been made, no money had yet been contributed by March 23 to the President's reelection campaign and only \$10,000 had been contributed to other Republican committees.

##### 1. \$2 MILLION COMMITMENT

From the time of the meeting in November 1970, in the Madison Hotel attended by Colson, Kalmbach, Evans, and the AMPI rep-

<sup>62</sup> Lilly, 14 *Hearings* 5977. This is corroborated by Lynn Elrod, who recalls that he paid the driver, Pleasant, on the same day as the Connally incident, and Pleasant did receive from Elrod a check for \$200 on the 19th for his services for AMPI that week. Pleasant check, 17 *Hearings* 8129. Elrod advised the committee staff that he had no record of payments to Pleasant at any other time in March.

<sup>63</sup> Connally, 14 *Hearings* 8067.

<sup>64</sup> Other evidence tends to cast doubt on the 19th as the date of the meeting. The entries in the AMPI jet log indicate that the jet arrived in Washington on the 19th, but did not leave until the 20th. Goggans Affidavit, 17 *Hearings* 7903. The jet log is not, however, necessarily accurate, particularly as to intermediate stops. Goggans Affidavit, 17 *Hearings* 7900-01. (For example, whereas the jet log for March 12, 1971 shows flights from San Antonio to Washington and back to San Antonio, the pilots' personal logs show San Antonio to Austin to Washington, and a return from Washington to Little Rock to Austin to San Antonio.) Nonetheless, in the case of the 19th, the pilot's personal logs are consistent with the jet log. Furthermore, those Page Airways records which are still in existence tend to confirm the accuracy of the jet logs, as to the time of arrival and departure.

In addition, Townsend testified that, based on his records, he had left Washington on the 18th and not the 19th. Townsend, 14 *Hearings* 6307. However, his records do not indicate if he returned again and left on the 19th without checking back into the hotel in Washington, which was not unusual for the milk producers during a period when they were particularly active in Washington.

<sup>65</sup> Lilly, 14 *Hearings* 5982.

<sup>66</sup> Blanton Affidavit, 17 *Hearings* 7840.

<sup>67</sup> Hotel records are not conclusive, since according to those records, the AMPI people left Washington nearly every Friday in March, including the 5th and the 19th.

<sup>68</sup> If the alleged Page Airways encounter took place on March 5, its significance is unclear in view of the decision on March 12 not to raise the support level.



representatives to discuss dummy committees for the \$2 million in milk producer contributions, until March 23, no substantial progress was made in arranging for these contributions to the President's campaign, and not one penny had been received toward the pledge. In the interim, Colson, Haldeman, and Kalmbach agreed to have a person not directly affiliated with the White House or the campaign to supervise this project.

Kalmbach was the chief fundraiser for the President. However, he apparently did not want to deal with interest group contributors, such as the milk producers.<sup>69</sup> In a memorandum from Colson to Haldeman dated February 1, 1971, and titled "Outside Fund Handling," Colson pointed out this fact to Haldeman and said that he knew of an individual who could handle contributions from those groups.<sup>70</sup> Haldeman's handwritten response on the memo was "proceed away." Below that is written "Bob Bennett" in what has been identified as Colson's handwriting.

Robert Bennett had served as vice chairman for public relations (under Robert Mullen) in the 1968 campaign (when he met Colson and Evans), and then became congressional liaison in the Department of Transportation, where he was Colson's "political contact."<sup>71</sup> When he left the Department in 1970, he joined Mullen's Washington public relations firm.

Bennett told the Select Committee staff that he wanted to participate, albeit in a minor way, in the 1972 campaign. He decided there would be a need for multiple committees for large contributions, and he talked to Colson and Evans about setting up committees.

Evans introduced Bennett to Kalmbach who told him that they needed 100 committees right away and, ultimately, 300 to 400 committees.<sup>72</sup> In March, Evans gave Bennett a copy of a charter for a District of Columbia Committee "to work for the renomination of President Richard M. Nixon."<sup>73</sup> In the following months, Bennett organized the committees using that charter. The ultimate disposition of these committees is discussed below in section V.B.

Kalmbach, Bennett and Evans are all uncertain when these discussions took place, but since John Dean sent copies of a draft of the charter to Kalmbach, Evans, and Frank DeMarco, Kalmbach's law partner, on March 18, 1971, it seems likely that the charter was not given to Bennett until sometime afterward. Thus, the reelection effort had not yet received any contributions toward the dairy pledge by March 23.

## 2. CONTRIBUTIONS TO THE MARCH 24, 1971, REPUBLICAN DINNER

The milk producers had apparently made a commitment to a Presidential representative—perhaps in addition to the \$2 million pledge—to contribute \$100,000 to the \$1,000 a plate kickoff 1972 Republican dinner on March 24 sponsored by the Republican Party. Colson, in a

<sup>69</sup> Kalmbach, 17 *Hearings* 7595.

<sup>70</sup> Strachan Exhibit 2B, 16 *Hearings* 7475.

<sup>71</sup> Bennett interview, October 16, 1973.

<sup>72</sup> It is interesting to note that 100 committees, at \$2,500 per committee, accounts for an initial \$250,000, the same amount Lilly testified the milk producers committed as a result of the contact with Connally in March and the approximate amount in fact contributed shortly after the March 25 increase. See Sections IV.F. and V.B., *infra*.

<sup>73</sup> See charter attached to Dean memo, 17 *Hearings* 8131-34.

memorandum dated February 2, 1971, to Haldeman's aide, Lawrence Higby, stated:

The Milk Producers are prepared to buy 10 tables to the committee dinner (\$100,000). The National Committee ought to be advised in advance that this is part of the money we owe. The only trick would be to be certain that we got credit for this against the sums they expect us to raise.<sup>74</sup>

Both Kalmbach and Gary Hanman of Mid-Am understood that at least part of the milk producer contributions for the dinner might, in fact, go to the President's campaign.<sup>75</sup> However, there is no evidence that anyone connected with the dinner or the Republican National Committee was aware of any arrangements between the milk producers and representatives of the President. Moreover, there is no evidence of any transfer of funds from any RNC committee to the President's reelection organization in 1971.

In early March, the co-ops were prepared to contribute to and attend the dinner. However, the adverse decision on March 12 dampened their interest and led some dairy leaders to consider a boycott of the dinner (and contributions).<sup>76</sup> No action was taken by AMPI toward making the dinner contributions until March 22 after Lilly and others began to realize that a price support increase might be granted by the President. On that date, four TAPE checks totaling \$10,000 were drawn to RNC committees. The other two leading co-ops, Mid-Am and DI, still had not committed themselves to the dinner or to the President's campaign.

Thus, by March 23, the milk producers may have discussed—but except for \$10,000 had not yet fulfilled—their \$2 million and dinner commitments. As discussed in sections F and G, these circumstances apparently changed in the following 2 days: On March 23, the milk producers met with the President and, shortly thereafter, received word of a possible price support increase; on March 24, the milk producers made additional pledges and contributions of \$75,000 to the Republican committees and the earlier \$2 million pledge was reaffirmed “in view of” the expected announcement of an increase.

## F. MARCH 23

The 23d of March began with a number of dairy industry leaders gathering in Washington to meet with the President. Beginning at 9 that morning, a number of meetings between administration and milk producer officials took place. The President attended a morning meeting with the industry leaders and an afternoon meeting with his advisers, at which he announced to his advisers that he would reverse Secretary Hardin's decision and raise the milk price support level. There is evidence in the committee's possession and discussed below that the milk producers were alerted late on the 23d

<sup>74</sup> Strachan Exhibit 2C, 16 *Hearings* 7476. Lee Nunn, then Executive Director of the Republican Senatorial Campaign Committee, who was responsible for the dinner, testified that he knew of no special arrangement between the dinner committee and the White House with respect to this contribution. Nunn, 17 *Hearings* 7538–39.

<sup>75</sup> Kalmbach, 17 *Hearings* 7589. Hanman, 14 *Hearings* 5885.

<sup>76</sup> Hanman, 17 *Hearings* 7735. Hanman says, prior to March 12, the milk producers intended to contribute \$60,000–\$80,000 to Republican dinner committees. Hanman, 17 *Hearings* 7735. Ultimately, TAPE contributed \$10,000 and the other co-op trusts \$75,000, for a total of \$85,000.

to a possible price support increase and of the need to reaffirm their \$2 million pledge, and within hours they were flying to assemble for a middle-of-the-night rendezvous in an urgent attempt to arrange for commitments of substantial financial contributions by fellow producers to the President's campaign. These efforts continued on the 24th as well, by the end of which the President's decision had been linked to the dairy contributions.

#### 1. 9 A.M.—COLSON-CHOTINER MEETING

Chotiner said that he met with Colson twice on the 23d, first at 9 or 9:30 and later at 6 in the evening.<sup>77</sup> At one or perhaps both of the meetings, milk producer political activity and contributions were discussed. Chotiner said that Colson was upset with Harrison and Hillings because of the December 1970 Hillings' letter to the President, and he believes that Colson may have even shown him a copy of the letter at one of the two meetings on the 23d.<sup>78</sup>

#### 2. 10:15 A.M.—PRESIDENT'S CALL TO CONNALLY

Connally's logs indicate that the President called Connally at 10:15 a.m., 15 minutes before the scheduled meeting with the milk producers. That morning, from 8 to 10:05 a.m., Connally had attended a meeting at the White House with the Republican leadership. Although Connally did not recall what he discussed with the President during the call, he assumed it related to the prior meeting and not to the upcoming meeting nor to milk price supports.<sup>79</sup>

However, materials obtained by the House Judiciary Committee indicate that Connally did discuss the milk producers with the President.<sup>80</sup>

#### 3. 10:30 A.M.—MEETING BETWEEN THE PRESIDENT AND MILK PRODUCERS

##### *a. Preparation for the Meeting*

Preparations for the March 23 meeting began several months before. On January 11, 1971, AMPI lawyers Harrison and Hillings met with Secretary Hardin, and on January 14, Harrison sent a letter to Hardin enclosing a list of names of dairy leaders whom they requested be invited to a meeting at the White House with the President and Hardin.<sup>81</sup> Included in the list were Nelson, Parr, Butterbrodt, and others of AMPI, Moser and Alagia of DI, Powell of Mid-Am and Harrison and Hillings.<sup>82</sup> Though preparation thus began in January, Hillings says he hoped to use the opportunity of the meeting to press the milk producers' case for price supports.

The meeting with the dairy leaders appears to have been scheduled substantially further in advance than usual. On January 26, Hardin

<sup>77</sup> In the staff interviews on December 7, and 10, 1973, Chotiner first revealed to Watergate investigators the fact of his two March 23 meetings with Colson. Colson's logs prior to mid-1971 were not available to the Select Committee.

<sup>78</sup> Weitz affidavit, Exhibit B. 17 *Hearings* 8007.

<sup>79</sup> Connally, 14 *Hearings* 6060.

<sup>80</sup> Letter from the House Judiciary Committee to the President, April 19, 1974. After the preparation of the Select Committee's Report, the House Judiciary Committee released a transcript of the President's side of this conversation, which is included in Appendix D to this chapter.

<sup>81</sup> Nelson Exhibit 4, 15 *Hearings* 6705-08.

<sup>82</sup> On the last page of the list is written "Chotiner?"

forwarded the Harrison list to Haldeman. Haldeman says that usually meetings such as this were not put on the President's schedule more than a few days in advance in order to keep it flexible.<sup>83</sup> According to a letter from Dwight Chapin, the President's Appointments Secretary, to Hardin, however, the President had, as of February 25, already approved of a meeting and it had been scheduled for March 23 at 10:30 a.m. in the Cabinet Room.<sup>84</sup>

### *b. Whitaker's Briefing Paper for the President*

The President normally receives a briefing paper to assist him in preparing for meetings, and John Whitaker apparently prepared the Presidential briefing paper for the March 23 meeting. As Colson had done in his briefing paper to the President the previous September, Whitaker called the President's attention to milk producer contributions.

The Select Committee has been denied access to this document by the President.<sup>85</sup> The White House conceded, however, that in the briefing paper the President was told that "the dairy lobby—like organized labor—had decided to spend political money and that Pat Hillings and Murray Chotiner were involved."<sup>86</sup>

Two questions come to mind: First, how did Whitaker learn of their contribution activity? Second, in view of the earlier pledge, described in a memorandum from Colson to the President, what was meant by the phrase "the dairy lobby . . . had decided to spend political money"?

First, on the same date of the briefing paper, March 22, Whitaker received from Under Secretary Campbell a memorandum with a fact-sheet on the milk producers and proposed "opening remarks" by the President for the next day's meeting.<sup>87</sup> There was no mention of political contributions. According to Ehrlichman, Whitaker did not usually receive fundraising information from Kalmbach which was provided to other White House officials.<sup>88</sup>

On the other hand, Colson had received the original \$2 million pledge and, as indicated by his February 1971 memos, had a continuing interest in milk producer contributions, including those to the dinner on the 24th; Ehrlichman, as evidenced by his activity in connection with significant contacts on the 23d and 24th, also became involved in linking the price-support increase to dairy contributions.

Second, while it appears that both the \$2 million pledge and the March 23 meeting had their genesis in 1970, the fact remains that as of March 23, 1971, no money had yet been contributed in satisfaction of that pledge. On the contrary, certain dairy leaders were even considering a boycott of further contributions to a Republican fundraiser that very week.

<sup>83</sup> Haldeman, 16 *Hearings* 7165.

<sup>84</sup> Chapin Letter, 17 *Hearings* 8135. According to a handwritten note on the letter, the meeting was confirmed with Harrison on March 2.

<sup>85</sup> After the preparation of the Select Committee's report, the House Judiciary Committee released a copy of this memo which is included in appendix D to this chapter.

<sup>86</sup> Both Hillings and Chotiner deny being "involved." However, the Select Committee has received evidence that at least Chotiner did play an important role in a key call to Nelson on the 23d and a meeting on the night of the 24th. See sec. IV.F.8 and IV.G below. And, of course, Hillings not only had written his Dec. 16, 1970, letter citing arrangements for a \$2 million contribution, but had met with Hardin and attended the meeting on the 23d with the President.

<sup>87</sup> Campbell memorandum, 17 *Hearings* 8136-38.

<sup>88</sup> Ehrlichman, 16 *Hearings* 7598.

The reference in the briefing papers to "political money" and to two friends of the President, Hillings and Chotiner, at the very least reflect an interest on the part of certain Presidential aides in milk producer contributions at a time when the President was considering an important matter affecting the milk producers.

### c. The Meeting

According to the White Paper "The President opened the meeting by thanking the dairy leaders for the support they had given to administration policies and praised them for their activism in pursuing goals which were important to them."<sup>89</sup>

The meeting in the Cabinet Room was taped. Plaintiffs in *Nader v. Butz* (the suit challenging the legality of the 1971 price support increase, see section VI.C.2.a), who have a copy of the tape recording of the meeting,<sup>90</sup> dispute the White Paper's summary. Plaintiffs have filed a pleading in the case in which they set forth the following transcription of the President's remarks:<sup>91</sup>

I first want to say that I am very grateful for the support that we have had [inaudible word] from this group. I know that in American agriculture you're widely recognized; that it cuts across all the farmer organizations, is represented in all the States. I know, too, that you are a group that are politically very conscious, not in any party sense but you realize that what happens in Washington not only affects your business success but affects the economy, our foreign policy [inaudible word] affects you. And you are willing to do something about it. And I must say a lot of businessmen and others I get around this table, they yammer and talk a lot but they don't do anything about it. But you do and I appreciate that. I don't need to spell it out. Friends talk [?], and others keep me posted as to what you do.

What did the President mean by his remarks? It should be noted that the most recent political activity by the milk producers as of March 23 was their lobbying efforts on the Hill resulting in congressional support for a price support increase which the President has called a "gun to our head."<sup>92</sup> The question may be asked whether the President was thanking them for this political activity or for expected contribution "support." It should be recalled (1) that the President knew of the \$2 million pledge and just prior to the March 23 meeting he had been reminded by Whitaker of the milk producers' political contribution activity, and (2) that the dairy leaders believed the President was kept informed by Colson of their contribution activity.<sup>93</sup>

It appears that the President—who had approved Hardin's March 12 decision and had permitted Hardin to announce it publicly—

<sup>89</sup> White Paper, p. 10, 17 *Hearings* 8085. After the preparation of the Select Committee's report, the House Judiciary Committee released a transcript of the meeting, which is included in appendix D to this chapter.

<sup>90</sup> Although the White House had not asserted executive privilege as to the meeting and had produced a copy of the tape recording to plaintiffs, it declined to provide the Select Committee with a copy, as explained above.

<sup>91</sup> Motion for Immediate Production of Records for Which Privilege Has Been Waived, at 2, *Nader v. Butz*, C.A. 148-72 (D.C. Dist. Ct., filed January 11, 1974).

<sup>92</sup> See section IV.I. *supra*.

<sup>93</sup> Nelson, 15 *Hearings* 6625.

did not defend the decision at the meeting. He apparently kept his options open and let Hardin and Campbell defend the previous decision.<sup>94</sup> Campbell, in particular, indicated his concern about overproduction.<sup>95</sup> Shultz said in the staff interview that, in fact, Campbell lectured the dairy leaders on the dangers of overproduction.

The White Paper states that "the President pressed the attendees as to whether or not they could control overproduction."<sup>96</sup> Mehren (who was not present) testified that Nelson later told him that he had promised the President that production could be controlled to insure a market price in excess of \$4.93 and thus minimize Government surpluses.<sup>97</sup>

The producers' position on production differed in two key respects from the approach of the administration. First, the dairymen asserted at the meeting they could control production by instituting certain marketing arrangements, called a "base-excess plan," on a wide-scale basis—when it may be that the strict implementation of the plan would run afoul of the antitrust laws. In fact, certain aspects of AMPI's base-excess plan have been alleged, in *United States v. Associated Milk Producers, Inc.*, Civ. Action No. SA 72C A49, W.D. Texas, filed February 1, 1972, to involve violations of the Federal antitrust laws.<sup>98</sup> Second, in a staff interview, Dr. Rice of OMB pointed out that if the dairy farmers could (as they represented) limit production and supply so that the price of milk would be raised by "natural" market forces to a level in excess of \$4.93, why then did they need a price-support increase in the first place?<sup>99</sup>

Dairy leader reaction to the meeting was mixed. Butterbrodt said that when he left the meeting he felt the President was going to change his mind.<sup>1</sup> However, Parr was not optimistic and felt their only hope lay with legislation.<sup>2</sup> Hanman, who said the President didn't indicate his position either way, was not encouraged by the meeting.<sup>3</sup>

After the meeting, many of the co-op leaders left Washington. Some, including Nelson, Parr, and Hanman, remained and later that night took part in covert, hurried efforts to arrange substantial commitments for contributions to the President's campaign—after communicating with some administration officials about the likelihood of an imminent price-support increase (see Sections IV.F. 7, 8, 9, 10, and 11 below).

#### 4. 12 NOON—PRESIDENT, SHULTZ AND EHRLICHMAN MEETING

Ehrlichman's logs indicate that he met with the President and Shultz at 12 noon, about one-half hour after the dairymen meeting ended. The Select Committee has no evidence indicating the subject of the meeting and it has been denied access to Presidential logs which indicate the subject matter of his meetings. However, in view of their participation in the price support matter and their attendance at a meeting that afternoon (at 4:45) at which the President presumably

<sup>94</sup> Harrison, 14 *Hearings* 6279; Hanman, 14 *Hearings* 5876.

<sup>95</sup> Hanman, 14 *Hearings* 5876.

<sup>96</sup> White paper, p. 10, 17 *Hearings* 8085.

<sup>97</sup> Mehren, 16 *Hearings* 7246.

<sup>98</sup> The Government's antitrust action against AMPI is discussed in Section VI.A., *infra*.

<sup>99</sup> There also have been allegations that AMPI bought large amounts of cheese in early 1971 to drive up the price above the \$4.93 level in an attempt to prove its case to the Administration. Nelson admitted AMPI had bought extra cheese but claimed it did so to offset an artificial downward pressure on the price. Nelson, 15 *Hearings* 6561.

<sup>1</sup> Butterbrodt, 17 *Hearings* 7639.

<sup>2</sup> Parr, 15 *Hearings* 6817-18.

<sup>3</sup> Hanman, 14 *Hearings* 5877; Hanman, 17 *Hearings* 7742.

announced the reversal to his aides, it is possible that the noon meeting involved, at least in part, a discussion of milk price supports. Moreover, Shultz' assistant, Rice, says he was informed by Shultz of the scheduling of the 4:45 meeting early that afternoon.

5. 4:45 P.M.—MEETING BETWEEN THE PRESIDENT AND HIS ADVISERS

Late on the afternoon of the 23d, at approximately 4:45, the President met with Connally, Ehrlichman, Shultz, Hardin, Campbell, Whitaker, and Rice to discuss the milk price support situation. Unlike the others present, Connally, as Treasury Secretary, was not usually involved in milk price support decisions, but he had, as noted above, talked to the President and other officials and was in contact (including on that day) with the milk producers.<sup>4</sup>

The Select Committee found that, of those it interviewed, Rice had the most detailed recollection of the positions taken by those present at the meeting.<sup>5</sup> He said that Shultz was still in favor of "holding the line" but he was willing to go along with the political "experts."<sup>6</sup> According to Rice, Hardin was willing to do whatever the President wanted, and Campbell reluctantly agreed they should grant an increase. Connally recalled that on balance Hardin was still opposed to an increase.<sup>7</sup>

In the staff interviews with Hardin and Whitaker, White House counsel asserted executive privilege on behalf of the President to prevent them from discussing what was said to or by the President at the afternoon meeting or any other time.<sup>8</sup> However, Hardin said the assertion of the privilege was unnecessary in his case since he did not remember what occurred at the meeting.<sup>9</sup>

Although the White Paper notes that "rising costs for dairy producers were mentioned," it concedes that the economic merits was not one of the two "fundamental themes" in the meeting—which it says were (1) congressional pressure for an increase and (2) "the political advantages and disadvantages of making a decision regarding a vital political constituency"—as the White Paper makes clear, the President's political constituency for the 1972 campaign.<sup>10</sup> Moreover, Rice recalls no sophisticated economic discussion and, in fact, on the merits, Hardin and Campbell were still opposed to an increase.<sup>11</sup>

<sup>4</sup> See Section IV.F.9, *infra*.

<sup>5</sup> At the time this Report was written, neither a transcript nor a tape recording of the meeting, which could provide a more complete account, has been furnished to the Select Committee. In November and December 1973, the committee requested and then subpoenaed the tape recording from the President who has not complied. After the preparation of the Select Committee's Report, the House Judiciary Committee released a transcript of the meeting which is included in Appendix D to this chapter.

<sup>6</sup> Rice Interview, *supra*. See also Connally, 14 *Hearings* 6063.

<sup>7</sup> Connally, 14 *Hearings* 6063.

<sup>8</sup> Rice, Shultz, Campbell, Connally and Ehrlichman did discuss, in general terms, the meeting; Rice informed the staff that he had contacted the White House to ask for its position on the executive privilege question but received no reply.

<sup>9</sup> This is difficult to understand since at that meeting the President reversed Hardin's own decision. Hardin appears to have made a material and substantial omission in his affidavit in 1972 in *Nader v. Butz*, in which he explained the reasons for the Mar. 25 decision. In the affidavit, Hardin made no reference whatsoever to the Mar. 23 afternoon meeting or to the President's involvement. See Section IV.H.2, *infra* and Hardin's affidavit, 17 *Hearings* 7916-19.

<sup>10</sup> White Paper, p. 5, 17 *Hearings* 8080. The White Paper position represents a major concession that the economic merits was only one of three factors taken into account by the President. As noted in Section IV.H.2 below, presumably the last word on the subject had been stated by former Secretary Hardin who had sworn in a March 1972 affidavit in *Nader v. Butz* that only economic considerations were taken into account. In fact, by January 8, 1974, the date of the White Paper, the Select Committee had accumulated considerable evidence that tended to contradict Hardin.

<sup>11</sup> Campbell, 17 *Hearings* 7788.

Connally spoke at length about the political situation—the support in Congress and the political impact on farm States. According to the White Paper, Connally “said that [the dairy industry lobby] votes would be important in several Midwestern States and he noted that the industry had political funds which would be distributed among House and Senate candidates in the coming election year—although neither the Secretary nor anyone else discussed possible contributions to the President’s campaign.”<sup>12</sup> However, the House Judiciary Committee has indicated that Connally also “stressed the dairy industry’s ‘potential’ for making political contributions.”<sup>13</sup> Since Connally has denied under oath before the Select Committee discussing with Jacobsen (or anyone else) milk producer contribution activity, it is not clear what source Connally had for his information.<sup>14</sup>

Although Campbell does not recall any discussion of a Presidential veto,<sup>15</sup> the White Paper states that the President concluded that he was faced with the option of either vetoing the legislation—and losing milk producer “support”—or, instead, acting to keep the “support” by increasing the level himself.<sup>16</sup> The President chose the second alternative.<sup>17</sup> As explained later in this report, the Presidential increase was more favorable for the milk producers than 34 of the 36 bills introduced.<sup>18</sup>

Near the close of the meeting, it was decided to inform the dairymen of the President’s decision. Campbell says that some one said: “Well, we need to tell the dairymen we are going to raise the support.”<sup>19</sup> It is not clear what was the purpose of notifying the dairymen. What *is* clear is that in the meetings and calls that immediately followed the meeting and preceded the public announcement 2 days later (and discussed in the following sections), the dairymen were informed of the likelihood of an imminent increase, and of the need to reaffirm their \$2 million pledge. Accordingly, they attempted to round up contributions and additional pledges and, in the end, Kalmbach was directed by Ehrlichman to meet with the dairymen who informed him that the reaffirmation of the \$2 million pledge was “linked” to the expected announcement.

#### 6. 5:50 P.M.—EHRlichMAN-COLSON MEETING

It is alleged that near the conclusion of the 4:45 p.m. meeting with the President, “there was a brief discussion about someone at the meeting contacting Mr. Colson.” Presumably based on its review of a tape recording of that meeting, the House Judiciary Committee has

<sup>12</sup> White Paper, p. 5, 17 *Hearings* 8080.

<sup>13</sup> See Letter from House Judiciary Committee to the President, *supra*.

<sup>14</sup> See section IV.F.9, *infra*.

<sup>15</sup> Campbell, 17 *Hearings* 7768.

<sup>16</sup> The President has charged that Congress put “a gun to our head.” This defense and the congressional activity is discussed below in Section IV.I.2.

<sup>17</sup> There is conflicting evidence as to when the President announced his decision to his aides. The White Paper indicates that he did so near the conclusion of the 4:45 p.m. meeting, and Rice corroborates that. On the other hand, Ehrlichman did not recall whether or not the decision was announced at that point, Ehrlichman, 16 *Hearings* 7392, and Connally testified it was not. Connally, 14 *Hearings* 6064. Therefore, the possibility that the President discussed the matter shortly before or after the meeting cannot be foreclosed and a potentially significant conversation remains to be discussed. Indeed, Ehrlichman said that he believes he did talk to the President about the price support decision sometime after the 4:45 p.m. meeting on the 23d, but refused to say what was said on the ground that such a disclosure would be “improper” and that “it’s none of your business.” Ehrlichman, 16 *Hearings* 7392–93. Absent fuller disclosure by the President and his former aide, the precise time and scope of the President’s decision cannot be fixed.

<sup>18</sup> See Section IV.I.2, *infra*.

<sup>19</sup> Campbell, 17 *Hearings* 7772.



evidence indicating that "the President either directed Mr. Ehrlichman to contact Mr. Colson, or approved Mr. Ehrlichman doing so."<sup>20</sup> As noted above, there was also a discussion of notifying the dairymen of the results of the meeting.

Ehrlichman did contact Colson. According to his logs, Ehrlichman met with him at 5:50 p.m.—only minutes after the meeting between the President and his aides ended and minutes before Colson met with Chotiner, a principal lawyer for the dairymen.

#### 7. 6 P.M.—COLSON-CHOTINER MEETING

At 6 that evening, Chotiner met with Colson for the second time that day. Although he could not specifically recall what was discussed at the meeting, he believed that, at one of his two meetings that day with Colson, they discussed the Hillings' letter. While Chotiner denied knowing of the reversal until it was publicly announced on the 25th, there is evidence that he knew on the 23d of the likelihood of an increase. In addition to talking to Colson on the 23d, Chotiner reportedly called Nelson that day to notify him of the status of the price support matter and to discuss dairy contributions. This is further corroborated by subsequent events during that 2-day period, as testified to by a number of persons, including Nelson and Kalmbach.

#### 8. CHOTINER CALL TO NELSON

Nelson has informed the staff that sometime on the 23d, he received a telephone call from Chotiner, who told him that the prospects for a price support increase were good but that it was not certain and that Nelson was not to count on it.<sup>21</sup> Nelson says that it was clear to him that Chotiner had obtained his information from a White House official, perhaps even the President himself.

Chotiner also discussed contributions, according to Nelson. Chotiner is reported to have notified Nelson to attend a meeting the next night with Kalmbach and himself "to get this matter [the committees for the \$2 million pledge] settled." Nelson said: "I was to let Kalmbach know that we were still prepared to make the contribution." While he asserts the increase was not conditioned on the contributions, Nelson says that he knew he was expected to reaffirm the pledge:

Mr. SANDERS. Did he indicate to you that the price support decision was linked to this reaffirmation you were to make?

Mr. NELSON. No; he just said that he wanted me to meet with Kalmbach, and I suppose that was an implication there, but he didn't deal that bluntly at all.<sup>22</sup>

Nelson says that call—and the critical information about the price support decision and the upcoming meeting with Kalmbach—triggered the trip late that night to Louisville (described below) to secure contribution pledges for the President's campaign from the leaders of Mid-Am and DI. Before doing so, Nelson also received a call from Under Secretary Campbell.

<sup>20</sup> Letter from House Judiciary Committee to the President. *supra*.

<sup>21</sup> Nelson advised the committee of this in an interview after the staff learned of Kalmbach's contacts with Ehrlichman on March 23 and 24, 1971.

<sup>22</sup> Nelson interview.

## 9. CAMPBELL CALL TO NELSON

Although Nelson does not recall the conversation, it appears that Under Secretary Campbell talked with him by telephone sometime after 5:50 p.m.<sup>23</sup> According to Campbell, the reason for the call was to "get the dairy people off our back." Campbell said he asked Nelson: "Now, Harold, if we do change our mind and do raise the price, will you and the other dairymen stop asking for \* \* \* price-support increases because I don't think it is good for the dairymen?" Campbell says he concluded by asking, "Will you get off our backs?" and Nelson agreed.<sup>24</sup>

Gary Hanman says he was told on the evening of the 23d that Campbell had called Parr and told him that "progress is being made" on the price decision and that they shouldn't boycott a Republican fundraising dinner scheduled for the next evening. There is no evidence of a call from Campbell to Parr that day and, in any event, Campbell denies discussing the dinner or contributions to the dinner with Parr, Nelson, or anyone else.<sup>25</sup> Also, Campbell did not consider himself to have been designated at the afternoon meeting with the President to notify the dairymen that an increase would be granted and, in fact, testified that he did not do so in his call to Nelson.<sup>26</sup> Two other dairy representatives in touch with administration officials who attended the 4:45 Presidential meeting and who were thus in a position to "alert" the dairy leaders were Chotiner (whose call to Nelson is already outlined above) and Jacobsen (who, as described below, was in contact with Connally).

## 10. EHRLICHMAN-KALMBACH CALL

Sometime on the afternoon or evening of the 23d, Ehrlichman spoke by long-distance telephone with Kalmbach in California. Kalmbach says that at that point Ehrlichman notified Kalmbach of an upcoming meeting scheduled for 11 p.m. on the night of the 24th between Kalmbach and others in Washington. Although Kalmbach did not know at the time of the call, that meeting turned out to be the meeting late on the 24th with Chotiner and Nelson, when Kalmbach says he was notified of the link between the price support decision and the \$2 million pledge.

Of note is that, when Ehrlichman spoke to Kalmbach on the 23d, the purpose of the 11 p.m. meeting and the identity of its participants had not yet been communicated to Kalmbach. Thus, at or about the time the President made his decision and communicated it to his advisers, the effort was underway—but had apparently not been finalized—to involve the President's chief fundraiser in the arrangements for the anticipated \$2 million in contributions prior to the public announcement of a price support increase. What yet remained was

<sup>23</sup> According to AMPI's records of phone messages, Campbell called Nelson at AMPI in San Antonio at 4:50 p.m. Central Standard Time (5:50 Eastern Standard Time) and left a message for Nelson to call him at his home number. See Nelson Exhibit 6, 15 *Hearings* 6710. Campbell said he talked to Nelson that day, probably after the 4:45 meeting. Presumably, that conversation occurred when Nelson returned Campbell's call. Campbell, 17 *Hearings* 7773-74, 7776.

<sup>24</sup> Campbell, 17 *Hearings* 7770-71, 7774.

<sup>25</sup> Hanman, 17 *Hearings* 7734. Campbell, 17 *Hearings* 7775-76.

<sup>26</sup> Campbell, 17 *Hearings* 7771, 7774-75.

the dairy lobby's effort to aggregate its political contribution resources prior to that public announcement—a matter discussed at the meeting at the Louisville Airport on the night of the 23d. Before that, there was at least one additional contact that day between the administration and the dairymen—a call from Jacobsen to Connally.

#### 11. JACOBSEN CALL TO CONNALLY

It is not entirely clear what role was played by Connally in the milk producer efforts to arrange for contributions linked to the price support decision. Ehrlichman says he talked to Connally about the price support question either before or after the 12th.<sup>27</sup> As discussed above, it is also known that Jacobsen met with Connally on the 19th and contacted Connally by telephone sometime on the afternoon or evening of the 23d.<sup>28</sup> Both Jacobsen and Connally testified that on these occasions they probably discussed price supports,<sup>29</sup> but Connally flatly denies that there was any mention by Jacobsen of dairy contributions.<sup>30</sup> Jacobsen, however, is not so certain. He testified that he did not recall, but may have discussed milk producer contributions with Connally.<sup>31</sup>

The most extensive account of Connally's involvement is provided by Bob Lilly who testified to a significant meeting in the Madison Hotel shortly after one of these Jacobsen-Connally contacts.

According to Lilly's testimony to the committee on November 14 and 16, 1973, Nelson, Parr, Jacobsen, Harrison and he<sup>32</sup> discussed in late March, 1971 the prospects for a price support increase.<sup>33</sup> Lilly said that the discussion then turned to political contributions and their outstanding commitments to the President. On that point, Jacobsen, based on his contact with Connally, is said to have reported—

that in order to obtain Mr. Connally's assistance in obtaining a favorable decision by the administration with regard to

<sup>27</sup> Ehrlichman, 16 *Hearings* 7382.

<sup>28</sup> There are no records available to determine the time of the Jacobsen-Connally call. However, the entry on Connally's logs immediately preceding the call from Jacobsen is "To: Gus Mutscher (Austin)." Connally Exhibit 1, 14 *Hearings* 6092. Mutscher, then speaker of the Texas House of Representatives, recalls only one telephone call from Connally, and that was in connection with a State bill that was being debated by the Texas Legislature on March 23, 1971. From a review of the records of the legislature, Mutscher believes the call from Connally was made at about noon, Central Standard Time, or 1 p.m. Washington time. Therefore, the Jacobsen-Connally conversation presumably took place sometime thereafter.

<sup>29</sup> Connally, 14 *Hearings* 6058; Jacobsen, 15 *Hearings* 6414.

<sup>30</sup> Connally, 14 *Hearings* 6058.

<sup>31</sup> Jacobsen, 15 *Hearings* 6413.

<sup>32</sup> Those allegedly present recall meeting and discussing political contributions on one or more occasions during the period, although Harrison does not believe it took place in March 1971. Harrison, 14 *Hearings* 6272.

<sup>33</sup> It is not clear whether the discussion took place after the Jacobsen-Connally contact on the 19th or 23d. Lilly testified that he thought the discussion took place the week of the 15th, which would link it to the meeting on the 19th. Lilly, 14 *Hearings* 5976. However, Lilly also placed the meeting at approximately the same time that Mehren, of AMPI, was preparing to leave the United States for Europe, because, according to Lilly, Mehren was not present at the meeting. Lilly, 14 *Hearings* 6110. Mehren's attorney has told the committee staff that he left Washington on March 24th and after the morning of the 23d, he was preparing to leave the city and had no further involvement in the price support effort. This fact would indicate that the meeting took place after the Jacobsen-Connally call on the 23d. While there are no records, such as records of airplane or hotel charges, to indicate that Jacobsen was present in Washington at the time, Jacobsen acknowledged that he flew by AMPI jet "considerably" (Jacobsen, 15 *Hearings* 6415.) and Nelson did maintain a suite of rooms in the Madison Hotel throughout most of March 1971, so that Jacobsen could have come and gone from Washington without the usual type of record having been made. If he was in fact not in Washington, then his participation in a March 23d meeting may well have been by long distance telephone as was his documented telephone conversation with Connally on the 23d.

Even if the discussion to which Lilly testified took place on the 19th, preparations for the plan to commit another \$250,000 in "new money" (as Lilly testified) were not begun

milk price supports, new money should be committed by AMPI.<sup>34</sup>

It is Lilly's testimony that Jacobsen "strongly indicated it. In fact, he said this had to be done."<sup>35</sup>

A discussion ensued and, as described by Lilly, it was agreed that \$250,000 in "new money"—in addition to whatever milk producer commitments were then outstanding—would be committed.<sup>36</sup>

The other alleged participants deny Lilly's account, although they agree that there were discussions from time to time about substantial contributions to the President's campaign—according to Jacobsen, "in the millions."<sup>37</sup> Nelson does not preclude the possibility that he even may have suggested at one point that they make a contribution immediately as a good faith showing of their intentions to honor their commitment.<sup>38</sup>

Connally has denied under oath not only discussing with Jacobsen the milk producer contributions to the President, but also knowing of any milk producer contribution activity:

[A]t no time to this good day do I know, nor has anyone ever told me what they contributed to whom, or by what means, or in what amount. I had nothing to do with their political campaign contribution activities.<sup>39</sup>

\* \* \* \* \*

I never discussed political contributions by this group with them, or with him, or with anybody else.<sup>40</sup>

Connally's dairy contact, Jacobsen, has admitted being present during discussions by dairy leaders of contributions:

Mr. WEITZ. At this time when you presumably reported back to Mr. Nelson and Mr. Parr about your meeting with Mr. Connally, did you discuss political support or political contributions with them to the Republican Party?

Mr. JACOBSEN. Well, I don't recall if it was at that time or some other time. But they did a lot of talking about making substantial contributions to the Nixon administration.

Mr. WEITZ. Did they indicate any specific amounts?

Mr. JACOBSEN. Oh, the figures were in the millions.

Mr. WEITZ. In the millions?

Mr. JACOBSEN. Yes.<sup>41</sup>

However, Jacobsen stated that he did not know of the purpose of the contributions or of any express tie between the contributions and the price support matter:

Mr. WEITZ. Exactly what did you know about the contribution to the multiple committees in 1971 by the dairy people?

until late on the 23d. It was not until that evening that AMPI representatives contacted Colson. Connally and Campbell and apparently learned of the likelihood of a favorable price support decision. Only then, for the first time, did the dairy leaders try to raise in a coordinated fashion from all three dairy co-ops several hundred thousand dollars at the Louisville Airport. See Lilly affidavit, 14 *Hearings* 6219.

<sup>34</sup> Lilly, 14 *Hearings* 6109.

<sup>35</sup> Lilly, 14 *Hearings* 5977.

<sup>36</sup> Lilly, 14 *Hearings* 6106.

<sup>37</sup> Jacobsen, 15 *Hearings* 6408.

<sup>38</sup> Nelson, 15 *Hearings* 6561.

<sup>39</sup> Connally, 14 *Hearings* 6072.

<sup>40</sup> Connally, 14 *Hearings* 6062.

<sup>41</sup> Jacobsen, 15 *Hearings* 6408.

Mr. JACOBSEN. Only that they were going to be made.

Mr. WEITZ. Do you know for what purpose?

Mr. JACOBSEN. No.

Mr. WEITZ. Do you know whether there were any commitments made in March of 1971 by the dairy people to either Republican fundraisers or anyone in the administration that such contributions would be made?

Mr. JACOBSEN. No; I don't.

Mr. WEITZ. Such commitments could have been made, though, since you were not advised of all of their efforts.

Mr. JACOBSEN. Absolutely.

Mr. WEITZ. At any time after the price support decision in 1971—the second one, to increase supports—has anyone, other than what you have read in the paper, ever talked to you, or have you ever learned about any understanding or commitment for contributions by the dairy people in the hope of obtaining an increase, or in fact in the expectation of obtaining an increase?

Mr. JACOBSEN. No; I don't know that.

Mr. WEITZ. Have you ever discussed this matter with Mr. Parr or Mr. Nelson since March 1971, the matter of political contributions and milk price support decisions?

Mr. JACOBSEN. No.

Mr. WEITZ. To the present time?

Mr. JACOBSEN. I don't think so.

Mr. DORSEN. Do you know whether the second increase decision was handled in any way other than the normal procedure that was customarily followed by the Department of Agriculture and the White House?

Mr. JACOBSEN. No; I don't know.<sup>42</sup>

On the other hand, Jacobsen assumed that the dairy contributions and the efforts to gain favorable action were related:

Mr. DASH. Was it necessary to express it? You all were working in the same direction. Was it an understanding that you all had that such a contribution would be aimed in the direction of getting a beneficial result?

Mr. JACOBSEN. Mr. Dash, I would have to assume that would be right.<sup>43</sup>

There are several pieces of independent evidence that tend to indicate that Connally in fact was aware, at least in a general way, of the milk producers' contribution activity. First, Haldeman stated that sometime in early 1971, before milk producer contributions to the President were made but after Haldeman says he became aware of their contributions intentions, Connally informed him that the milk producers wanted to make a contribution but that committees were not being set up for them.<sup>44</sup>

Second, according to a transcript released by the House Judiciary Committee of a tape recording of the afternoon meeting with the President on March 23, Connally discussed milk producer contri-

<sup>42</sup> Jacobsen, 15 *Hearings* 6418-19.

<sup>43</sup> Jacobsen, 15 *Hearings* 6409.

<sup>44</sup> Haldeman, 16 *Hearings* 7163.

butions with the President and a number of his aides at that meeting.

Third, there is a contemporaneous document handwritten by Nelson on the back of a co-op document relating to the 1971 price support matter which bears on the question of Connally's involvement.<sup>45</sup>

Nelson says that the word just below the first line in the middle of the note appears to him to be "Connally." While Nelson said "I just can't tell what the word is," he did acknowledge: "I would agree with you that I can see how it could be."<sup>46</sup> Moreover, he was able to name specifically only Connally and Hardin who he was aware had spoken to Shultz and the President, and, of those two, he could not read the word other than as Connally.<sup>47</sup>

Nelson assumed that the note was written on March 23 at his meeting with the President.<sup>48</sup> The note appears to reflect the substance of two meetings on conversations. While the President and Shultz did attend the morning meeting, Connally did not. The question may be asked whether the two parts of the note were written on two different occasions, and whether at least the second half reflects a communication between the milk producers and Connally in connection with the events on March 23. Indeed, the language quoted in the first half of the note is nearly identical to that used by Connally when he testified before the Select Committee about Shultz' pre-March 23 position on price supports.<sup>49</sup>

As to the meaning of the note, Nelson acknowledged that AMPI was the most aggressive political organization in agriculture. He did not believe "Didn't give" referred to contributions, because he assumed the note was written after some money had already been contributed.<sup>50</sup> Nelson noted that "the 'didn't give' part connotes presently to me that what I was reacting to was the thought that Shultz was not 'giving' insofar as changing his position in the matters concerned," but observed that "this is just conjecture" on Nelson's part.<sup>51</sup>

However, Nelson could only point to the \$10,000 in checks that had been prepared on March 22d for dinner tickets. In any event, that \$10,000 fell far short of the alleged \$100,000 commitment for the dinner and a \$2 million pledge for the President's campaign. In that context, perhaps a contribution of \$10,000 wasn't "giving."

Fourth, Lilly's account of a \$250,000 commitment in connection with Jacobsen's contact with Connally dovetails with the evidence that at about that time Kalmbach and Robert Bennett both understood that the first contributions by the milk producers to the multiple committees for the President's campaign were to total \$250,000, in the form of \$2,500 to each of 100 committees.

Finally, within 36 hours after Jacobsen called Connally, several unusual meetings took place concerning the milk price support decision

<sup>45</sup> Nelson Exhibit 5, 15 *Hearings* 6709. The note reproduced on the next page, appears to read as follows:

Schultz [sic]: Every dime must be cut down.  
Schultz [sic] has got to be instructed[?].  
Talked to Schultz (sic) and President 30 minutes.  
Told Pres. we were most aggressive polit. organ. in Agric.  
Didn't give.

<sup>46</sup> Nelson, 15 *Hearings* 6562-63.

<sup>47</sup> Nelson, 15 *Hearings* 6563.

<sup>48</sup> Nelson, 15 *Hearings* 6565.

<sup>49</sup> Connally testified that Shultz "was fighting to keep a dime of additional expenditure down . . ." Connally, 14 *Hearings* 6063.

<sup>50</sup> Nelson, 15 *Hearings* 6564.

<sup>51</sup> Nelson, 15 *Hearings* 6565-66.

## NELSON EXHIBIT 5

*Schultz: Everything must be  
cut down.*

*H. Schultz has got to be  
instructed.*

---

*Connally.*

*I talked to Schultz & Pres  
50 min.*

*Pres. he was most  
aggressive polit. org. in Ague  
didn't give*

and substantial contributions and linking, in one case. Connally, and in another, Ehrlichman, to these efforts. Based on the evidence provided by Lilly, Kalmbach and others, these subsequent meetings appear to have resulted from the earlier contacts on March 23 with Connally, Chotiner, Ehrlichman, and perhaps others.

We now turn to one of the most important of these meetings—at the Louisville airport late on the night of the 23d or early in the morning of the 24th.

## 12. LATE NIGHT MEETING IN LOUISVILLE

Late on the night of the 23d, several AMPI and Mid-Am people flew to Louisville to meet with a DI officer and seek a contribution from DI (SPACE) of several hundred thousand dollars.<sup>52</sup> The meeting was a direct result of the events earlier that day, principally their learning of the expected announcement of a price support increase.

Paul Alagia was, in March 1971, in the process of stepping down from his position as a top official of DI in favor of Ben Morgan. Nevertheless, together with John Moser (DI's president), he had attended the meeting with the President on the 23d. Following that meeting, he had lunch in Washington, D.C., and then flew to Chicago on other business.

While in Chicago that evening, he received a call from his wife in Louisville, who told him that some AMPI people had called her and were looking for him and wanted to know the time of his scheduled

<sup>52</sup> The Committee staff learned of the meeting during a series of interviews with DI personnel in Louisville, Kentucky, on December 13, 1973.

return. After another phone call between AMPI people and his wife, she called Alagia and told him that they would be waiting for him in Louisville.<sup>53</sup>

Alagia arrived about 3 or 4 in the morning to find waiting, in the near-deserted Louisville Airport, four representatives of the other two major dairy co-ops: Nelson, Parr, and Lilly of AMPI and Gary Hanman of DI. According to Alagia, they told him they wanted Alagia to commit \$200,000 or \$300,000.<sup>54</sup> Alagia said of the request: "It was in the context of the meeting [with the President]." <sup>55</sup>

Alagia testified that they were trying to pressure him into agreeing to a commitment. They told him "they had either been to see Connally or they were on their way to see Secretary Connally." <sup>56</sup> As related to Alagia, Nelson then told him "what a forceful fellow Connally was." <sup>57</sup> Lilly says that the only reason Nelson had asked Lilly to accompany them to Louisville was that, since Alagia respected Lilly who had spoken face-to-face with Connally about the matter in the Page Airways Terminal, Nelson hoped that Lilly's presence would add greater force to their appeal to Alagia. <sup>58</sup>

Alagia says that he refused the first request, and that they immediately scaled down their request to a \$100,000 loan from DI's political arm, SPACE, to ADEPT by the "first of the week"—March 29. <sup>59</sup> Alagia says that he told them he didn't think SPACE could legally loan money and that he wasn't interested in doing so. According to Alagia, the meeting broke off without any understanding that SPACE would make a contribution.

Except for Hanman, the others present either corroborated or did not dispute the essential portions of Alagia's account. <sup>60</sup> Hanman, who first testified before the committee learned of the Louisville meeting and did not himself refer to that meeting, stated that the only time between March 12 and 25 that ADEPT contributions to the President may have been discussed was on March 24 at the Republican fund-raising dinner. <sup>61</sup>

The next day, the 24th, SPACE contributed \$25,000—its largest contribution up to that time—to five Republican committees, and, within 1 week, arrangements were underway for TAPE to loan ADEPT \$50,000 which ADEPT contributed to Republican committees. These matters are discussed below.

Lilly, who says they needed some money from Alagia and DI the next day, the 24th, considered the flight to Louisville the first effort by the three dairy trusts of which he was aware to coordinate substantial contributions to the President's campaign. <sup>62</sup>

Parr testified there was "some urgency" about the trip to Louisville, but he was not sure why. <sup>63</sup> Why, indeed? The price support question and, according to AMPI, a pledge of contributions had been outstanding for several months. That very day—the 23d—Alagia had been in

<sup>53</sup> Alagia, 16 *Hearings* 7071.

<sup>54</sup> Alagia, 16 *Hearings* 7072.

<sup>55</sup> *Ibid.*

<sup>56</sup> Alagia, 16 *Hearings* 7075.

<sup>57</sup> *Ibid.*

<sup>58</sup> Lilly affidavit, 14 *Hearings* 6218–20.

<sup>59</sup> Alagia, 16 *Hearings* 7072–73.

<sup>60</sup> See Nelson, 15 *Hearings* 6630–31; Parr, 15 *Hearings* 6819; Lilly Affidavit, 14 *Hearings* 6218–20.

<sup>61</sup> Hanman, 14 *Hearings* 5880. Hanman has since testified before the Select Committee about his attendance at the meeting. See Hanman, 17 *Hearings* 7731–40.

<sup>62</sup> Lilly Affidavit, 14 *Hearings* 6819.

<sup>63</sup> Parr, 15 *Hearings* 6819.



Washington with Parr and Nelson at the meeting with the President. A meeting for representatives of the three co-ops—including Paar, Hanman, and Alagia—was already scheduled for Chicago for March 25. What was it that was not known at noon on the 23d but couldn't wait until March 25 and caused the four instead to fly hundreds of miles in the middle of the night of March 23d-24th?

Nelson, the head of the leading cooperative, provides an explanation. Nelson says that he acted on the basis of the information he received from Chotiner about the status of price support matter and the upcoming meeting with Kalmbach. He thought by holding out to other dairy leaders the possibility of a Presidential increase—without assurance that it would definitely be granted—he hoped to induce them finally to commit large amounts of money to the President's campaign before the price support matter was resolved.<sup>64</sup>

#### G. MARCH 24

The dairymen returned to Washington from Louisville on the morning of the 24th. That day, SPACE contributed \$25,000 and ADEPT pledged \$50,000 to Republican committees. By the end of the 24th, a key meeting—at which Kalmbach was informed of the link between the price support increase and the \$2 million pledge—was held preliminary to the announcement of the increase the next day.

##### 1. \$75,000 FROM SPACE AND ADEPT

The Louisville Airport meeting was followed the next day by an immediate \$25,000 contribution and a pledge of an additional \$50,000. On the 24th, Hanman hurriedly checked with other Mid-Am officials and then pledged \$50,000 to be contributed in the next several weeks after the receipt of the loan discussed at the airport meeting.<sup>65</sup>

In the meantime, DI officials took steps to contribute their \$25,000 that day. After the meeting in the Louisville Airport, Alagia went home, slept for several hours and then went to the DI offices later that morning, where he told Ben Morgan and John Moser of the airport meeting.<sup>66</sup> That day, Jim Mueller, the SPACE trustee, wrote five checks, each for \$5,000, to five Republican committees, and the checks were taken by plane to Washington by a DI employee and delivered to Marion Harrison.

There is a dispute in the testimony as to whether the \$25,000 contribution was the result of the airport meeting with AMPI and Mid-Am. Alagia says that it was not. He claims he talked to Moser on the 23d, after the meeting with the President, about making a contribution to Republican Members of Congress to encourage them to support price legislation—although he did not indicate that there was any discussion of a \$25,000 contribution. He says that on the 24th he discussed the question with Morgan who agreed to a contribution of \$20,000 or \$25,000—the largest contribution by SPACE to that time—and who then authorized Mueller to issue the checks. However, Morgan contradicted Alagia by saying, in a staff interview, that he did not

<sup>64</sup> Nelson interview, June 12, 1974.

<sup>65</sup> Hanman, 17 *Hearings* 7736.

<sup>66</sup> Alagia, 16 *Hearings* 7044-75.

determine the amount of the contribution and he does not know who did.<sup>67</sup>

Alagia stated that the \$25,000 was to be used to purchase tickets to the \$1,000 a plate Kick-Off 1972 Republican Dinner, which was the subject of Colson's memorandum concerning an anticipated \$100,000 dinner contribution.<sup>68</sup> Alagia explained that a messenger was sent to Washington to assure that the DI people who were in Washington to attend the dinner received their tickets.<sup>69</sup> However, although \$25,000 was contributed, only 10 tickets were received.<sup>70</sup>

Nelson, Parr, and Lilly, in sworn statements, have stated that the SPACE contribution on the 24th resulted from their meeting with Alagia.<sup>71</sup> Nelson, who was not in Washington for part of the day on the 24th, stated that someone from DI probably contacted Parr that day to notify him of the contribution.<sup>72</sup>

## 2. 5:30 P.M.—EHRlichMAN-KALMBACH MEETING

Kalmbach flew to Washington from California on March 24 and, upon arriving, he immediately met with Ehrlichman at their scheduled 5:30 p.m. meeting at which he was briefed on his various meetings in Washington scheduled for that evening and the next day. According to Kalmbach:

At the 5:30 meeting with Mr. Ehrlichman he advised me that I would be meeting with Mr. Chotiner and Mr. Nelson later that evening, at which time a reaffirmation of the [\$2 million] pledge would be received.<sup>73</sup>

Therefore, whereas the identity of the participants and purpose of the late-night meeting on the 24th had not been finalized or at least communicated to Kalmbach on March 23—when Kalmbach included the meeting on his agenda—they were apparently set by 5:30 p.m. on the 24th—after the milk producer contribution activity late on the 23d and on the 24th.

Ehrlichman was asked about his knowledge of the relationship between milk producer contributions and governmental action they desired:

Mr. SANDERS. Did you learn at anytime that AMPI had pledged funds of any size for the reelection of the President in return for some specific favorable governmental action?

Mr. EHRlichMAN. No.

Mr. SANDERS. Or that they did in return for some favorable governmental action?

Mr. EHRlichMAN. No.<sup>74</sup>

## 3. KICK-OFF 1972 REPUBLICAN DINNER

A large contingent from the dairy co-ops, including Nelson and Parr, attended the Kick-Off 1972 Republican Dinner on the evening

<sup>67</sup> Morgan interview, December 13, 1973.

<sup>68</sup> See Section IV.E *supra*.

<sup>69</sup> Alagia, 16 *Hearings* 7075-76.

<sup>70</sup> Westwater interview, December 17, 1973.

<sup>71</sup> Nelson, 15 *Hearings* 6631; Parr, 15 *Hearings* 6826; Lilly Affidavit, 14 *Hearings* 6218-20.

<sup>72</sup> Nelson, 15 *Hearings* 6631.

<sup>73</sup> Kalmbach, 17 *Hearings* 7812.

<sup>74</sup> Ehrlichman, 16 *Hearings* 7400.

of the 24th at the Washington Hilton. Parr testified that at first, he had not wanted to contribute to the Republicans or attend the dinner, explaining, "I never did like to help anybody who was going to be against me."<sup>75</sup>

On the other hand, Parr readily agreed that he would have wanted to support them if they acted favorably toward the dairymen.<sup>76</sup> Parr said that at some point prior to the dinner, Nelson and Harrison told him that he and the other co-op people should attend the dinner.<sup>77</sup>

Nelson and Parr testified that at the dinner Page Belcher, who was then the ranking minority member of the House Agriculture Committee, was telling everyone present that the administration was going to announce a price support increase.<sup>78</sup>

Belcher was not the dairymen's only source of information on the price-support decision that night. Shortly after the dinner Nelson apparently was notified—again by Chotiner as he had been the day before—that there was going to be an increase—and, according to Kalmbach, that it was linked to milk producer contributions.

#### 4. CHOTINER-NELSON-KALMBACH MEETING

Chotiner, in a staff interview, and later Nelson and Kalmbach in sworn testimony before the Select Committee, each acknowledged that they met after the dinner on the 24th, and discussed milk producer contributions.<sup>79</sup> Because of the significance of the meeting and of variations and, in some instances, contradictions between the accounts, the three versions are set out separately in some detail.

##### *a. Chotiner's Account*

According to Chotiner,<sup>80</sup> the meeting was precipitated by Ehrlichman but its purpose was not to discuss contributions. Chotiner says that at the dinner on the 24th Ehrlichman told him that Colson was unhappy with Harrison and Hillings representing the milk producers and that Colson wanted nothing more to do with the dairymen as long as he had to work through Harrison and Hillings. Chotiner says he had talked to Colson directly about this matter and Colson's unhappiness stemmed from the language in Hillings' letter to the President in December 1970.

Chotiner told Ehrlichman that as counsel to the Harrison firm he could not take full responsibility for the client away from Harrison, but he did agree to help work with Colson. Ehrlichman then asked Chotiner to meet with Nelson and Kalmbach the next morning the 25th, to tell Nelson of the new arrangement. Chotiner said he couldn't because he was leaving for California, but that he would do so upon his return.

As related by Chotiner, Ehrlichman indicated that it couldn't be put off and asked Chotiner to meet with them that night. Chotiner agreed

<sup>75</sup> Parr, 15 *Hearings* 6817.

<sup>76</sup> *Ibid.*

<sup>77</sup> Parr, 15 *Hearings* 6828.

<sup>78</sup> Nelson, 15 *Hearings* 6569; Parr, 15 *Hearings* 6828.

<sup>79</sup> The committee staff first learned of the meeting on December 7, 1973, during an interview with Chotiner when he was questioned concerning his conversations with Nelson on the subject of campaign contributions. Chotiner was also the committee source for the information that he met with Colson at 6 p.m. on March 23.

<sup>80</sup> Chotiner interview, included as Exhibit B to Weitz Affidavit, 17 *Hearings* 8007-09.

and at the dinner told Nelson "let's get together with Kalmbach to talk about the milk decision" and then informed Kalmbach. He says he also told Harrison of the arrangement.

Chotiner says that he did not think Ehrlichman's request was unusual; he explained that he thought it would have been inappropriate for a Government official (presumably Ehrlichman or Colson) to be present when Chotiner met with Nelson to discuss a change of counsel.

Following the dinner, Chotiner met with Nelson in the lobby of the Madison Hotel, where Kalmbach was staying. They waited for perhaps as long as a half hour or an hour before obtaining the correct telephone number to Kalmbach's room and, finally around 11:30 or midnight, met Kalmbach in his room.

Kalmbach was already in his robe and the meeting was short. The substance of the meeting consisted of the following conversation:

Mr. CHOTINER. Harold, it's no criticism of Marion [Harrison] or Pat [Hillings]; maybe they don't like the way they comb their hair, but there's bad feeling between Colson and Marion and Pat. So they want me to represent you in dairy matters unless you object.

Mr. NELSON. Okay.

Mr. CHOTINER. Herb, is that your understanding?

Mr. KALMBACH. Yes.

Mr. NELSON. We had a satisfactory meeting with the President and we appreciate it. We contribute to both Democrats and Republicans. If we want to contribute to Republicans, how should we do so?

Mr. CHOTINER. Harrison is still your attorney for such matters, and he'll give you the names of committees.<sup>81</sup>

Chotiner says the meeting ended, he went home and the next day flew to California. Chotiner insists that Ehrlichman did not tell him anything concerning the price support decision and he did not learn of the reversal until it was publicly announced on the 25th.

The question arises, then, as to why the attendance of Kalmbach, the President's chief fundraiser, was necessary at a meeting for a change in dairymen's counsel. Why, also, was a change in counsel necessary on the evening of the 24th if the new counsel (Chotiner) was leaving for California for the last few days in March just prior to the new milk marketing year when the milk producer efforts for an increase would presumably be greatest?

Chotiner's account is contradicted in several material respects by Nelson and Kalmbach.

### *b. Nelson's Account*

Nelson says he was first notified by Chotiner of the 11 p.m. meeting when Chotiner called him on the 23d—and not at the dinner on the 24th as Chotiner said. According to Nelson, the express purpose of the meeting was to discuss arranging committees for the \$2 million pledged by the dairymen, and that he knew that he was expected to reaffirm that pledge. Although Nelson says that he did not understand that a price support announcement was conditioned on reaffirmation

<sup>81</sup> Weitz Affidavit, Exhibit B, 17 *Hearings* 8008-09.

of the pledge, Nelson concedes that Chotiner discussed price supports and contributions with him during the March 23d telephone call preparatory to the 11 p.m. meeting on the 24th. And, as already discussed above, the late-night flight to Louisville to arrange for dairy commitments of hundred of thousands of dollars was triggered by Chotiner's notice to Nelson of the possible (though not certain) price support increase.

As for the 11 p.m. meeting, Nelson, like Chotiner, says that they waited in the lobby of the Madison Hotel for some time before seeing Kalmbach. However, he testified to an important additional fact: he believes that, while they were waiting, Chotiner again told Nelson that a price support increase: "... looked favorable ... [Chotiner] wasn't guessing, but he also admonished [Nelson] not to count on it until it was absolutely done, that it could not happen."<sup>82</sup> Nelson assumed that Chotiner had obtained his information "from him, the President, or somebody very close to the President."<sup>83</sup>

They met with Kalmbach after midnight. Nelson says he told Kalmbach that he was prepared to go forward with the contribution and Chotiner "put it on [Kalmbach] about getting names of the committees, and he said he would."<sup>84</sup> Nelson concurred and the meeting ended. Contrary to Chotiner's account, Nelson remembers no mention at the meeting of Colson, Harrison, or Hillings, or the meeting with the President, and says he was not aware of any dispute between Colson and the Harrison firm.<sup>85</sup>

Nelson denied that there was any remark at the meeting that "linked" the reaffirmation and the expected announcement:

Mr. SANDERS. \* \* \* do you have any recollection of any remarks by Chotiner which conditioned the anticipated announcement on any reaffirmation from you?

Mr. NELSON. No; I feel certain that he didn't.

Mr. SANDERS. Did he indicate to you that the price support decision was linked to this reaffirmation you were to make?

Mr. NELSON. No.

Mr. SANDERS. Did you have any understanding on the 23d that the price support decision might not come about if the reaffirmation was not made?

Mr. NELSON. No. \* \* \*<sup>86</sup>

With respect to his overall understanding of any relations and the price support decision, Nelson testified:

Mr. SANDERS. Did you at any time articulate any promise to any official of the Nixon administration or the Nixon reelection effort to make a certain amount of money available for the reelection of the President in return for an increase in milk price supports?

Mr. NELSON. No, sir.

Mr. SANDERS. Do you have knowledge that anyone else in AMPI did so?

Mr. NELSON. No, sir.

<sup>82</sup> Nelson, 15 *Hearings* 6570.

<sup>83</sup> *Ibid.*

<sup>84</sup> Nelson, 15 *Hearings* 6573; Nelson interview.

<sup>85</sup> Nelson, 15 *Hearings* 6560, 6573.

<sup>86</sup> Nelson interview, July 1, 1974.

Mr. SANDERS. Do you have knowledge that any official of any other dairy co-op or trust did so?

Mr. NELSON. No, sir.

\* \* \* \*

Mr. SANDERS. There would be a difference between making the contributions in the way of gratitude for action taken by the administration as opposed to making the payments in fulfillment of an obligation?

Mr. NELSON. That is right. There is a matter of semantics involved there, too. There is no obligation to fulfill because of the price support increase.

\* \* \* \*

Mr. SANDERS. At any time since March 24, 1971, have you been apprised by any responsible official in the Nixon administration or reelection effort that any action taken by you on March 24, 1971, or any representations made by you on that day resulted in the price increase, the increase in the support level the following day?

Mr. NELSON. No.<sup>87</sup>

However, Nelson assumed that an unwillingness on his part to go forward with the contributions would have an adverse effect on the price support matter. He testified:

Mr. SANDERS. Was anything articulated by Chotiner or Kalmbach to lead you to this conclusion?

Mr. NELSON. No. I think it would have certainly cast a cloud on our credibility had we then said, no, we won't make the contribution. I think they would have been fully justified in saying, we don't want any more conversations with you about anything.

Mr. SANDERS. But that was purely subjective?

Mr. NELSON. Right.

\* \* \* \*

Mr. WEITZ. You felt that a failure to reaffirm would have had an adverse effect. Was it not true that the meeting was to notify you or inform you of the status of the price support matter and, at the same time, try to move forward on the pledge?

Mr. NELSON. Yes.

Mr. WEITZ. Did that have some influence on your feeling that there might be an adverse impact if you refused?

Mr. NELSON. Oh, certainly.

With respect to what Nelson considered his alternatives, he replied:

Mr. SANDERS. When you made that reaffirmation that night, did you consider that it would be reversible if the next day, or the next few days there had not been an increase?

Mr. NELSON. No, sir.

But he explained that:

We were perfectly willing to make the contributions. We knew, and he knew that we were interested in matters other

<sup>87</sup> Nelson, 15 *Hearings* 6694-95.

than just the price support decision. We weren't in any position to say, if you don't do this we're not going to make the contribution.<sup>88</sup>

*c. Kalmbach's Account*

Based upon his typed agenda for March 24,<sup>89</sup> Kalmbach believes that it was Ehrlichman—and not Chotiner—who first informed him of the fact and purpose of the 11 p.m. meeting.<sup>90</sup>

With respect to the meeting itself, Kalmbach testified before the committee on March 22, 1974, that, like Nelson, he recalled no reference by anyone at the meeting to Colson or Harrison or Hillings or the Harrison firm.<sup>91</sup> Instead:

the main, and almost sole, purpose of that meeting was the reaffirmation of the \$2 million pledge and the fact that they told me that the price support decision was to be announced the next day and that in view of that fact and in view of the fact that Mr. Ehrlichman had asked Mr. Chotiner to make sure that I was informed of this reaffirmation, that they were in fact reaffirming the \$2 million pledge to the campaign.<sup>92</sup>

Kalmbach, when questioned further, restated his testimony in more precise terms; he said:

that Mr. Chotiner, in telling me of the fact that Mr. Ehrlichman had asked him to advise me or relay to me the fact that they were reaffirming their pledge of \$2 million in contributions to the 1972 campaign \* \* \* There was to be *an announcement* the next day and this *was*, in fact, *linked to this reaffirmation of the \$2 million pledge*<sup>93</sup> . . .

Kalmbach testified again on June 13, 1974, and adopted his prior testimony as to the purpose and content of the meeting, but further explained it as follows:

Mr. KALMBACH. . . . my very best recollection, that at the 5:30 meeting with Mr. Ehrlichman, he advised me that I would be meeting with Mr. Chotiner and Mr. Nelson later that evening, at which time a reaffirmation of the pledge would be received.

Mr. SANDERS. So that to the best of your recollection Mr. Ehrlichman did not place the reaffirmation in the context of the anticipated price increase.

Mr. KALMBACH. I do not have that recollection; no, sir . . . I was not to seek a reaffirmation, but . . . I would be supplied such a reaffirmation.

\* \* \* \* \*

Mr. SANDERS. In your conversation with Nelson and Chotiner, and in connection with some mention by them, as you told us, of the price increase to be announced the next day, did it appear to you that that announcement was already a foregone conclusion, that was to occur?

Mr. KALMBACH. Yes.

<sup>88</sup> Nelson interview, *supra*; see Nelson, 15 *Hearings* 6698-99.

<sup>89</sup> See Kalmbach Exhibit 4, 17 *Hearings* 7816.

<sup>90</sup> Kalmbach, 17 *Hearings* 7600.

<sup>91</sup> Kalmbach, 17 *Hearings* 7601.

<sup>92</sup> Kalmbach, 17 *Hearings* 7602.

<sup>93</sup> Kalmbach, 17 *Hearings* 7607. (Emphasis added.)

Mr. SANDERS. Did it appear to you that it was in any way reversible?

Mr. KALMBACH. It did not.

Mr. SANDERS. Did it appear to you that if the reaffirmation was not made, that the price announcement would not be made?

Mr. KALMBACH. It did not. It appeared to me, Mr. Sanders, that the decision had been made as to the announcement the following day of the price increase; and that the purpose of my meeting with Mr. Chotiner and Mr. Nelson was to receive a reaffirmation of the earlier pledge. And that I would be the one for them to see, inasmuch as I was the principal fundraiser for the 1972 campaign at that point in time.

Mr. SANDERS. Do you have any concept of what might have occurred if the reaffirmation had not materialized that night?

Mr. KALMBACH. No, sir; I do not, although it is my impression that I felt that I was simply to be advised of the reaffirmation.

Mr. SANDERS. Now, you have told us during previous testimony that the announcement—I believe the terminology was “linked” to the reaffirmation.

Mr. KALMBACH. That is correct, I so understood that it would be.

Mr. SANDERS. What do you mean by “linked,” if the announcement was already a foregone conclusion and was not reversible, did you mean to say that the reaffirmation was conditioned upon the announcement of the increase?

Mr. KALMBACH. No, Mr. Sanders, my understanding was, as I think I testified, was that when I met with Mr. Nelson and Mr. Chotiner, that they indicated that the milk support decision would be—they understood that the milk support decision would be announced the following day, and in view of that fact they were in fact reaffirming the pledge by the milk producers to the President’s 1972 campaign. That is what I meant by the fact that the two matters were in fact linked.

Mr. SANDERS. So that you had no understanding with Haldeman, Ehrlichman, Nelson, Chotiner, or anyone that the reaffirmation of the so-called pledge was being made in any way as a condition of the announcement of the price increase?

Mr. KALMBACH. I did not so understand.

\* \* \* \* \*

Mr. KALMBACH. I think, Mr. Dorsen, that my understanding was simply, as I stated, that the price support would be announced the next day; and that in view of that fact, that the pledge to the President’s 1972 campaign was being reaffirmed to me as a principal fundraiser.

Mr. DORSEN. But it was also your understanding that the pledge had already been reaffirmed at an earlier time, prior to the 11 p.m. meeting.

Mr. KALMBACH. Well, it was my impression that they were simply advising me of something that they probably had indicated to someone else earlier.



Mr. DORSEN. So, that essentially you were going to be a witness to the reaffirmation in your capacity as the fundraiser.

Mr. KALMBACH. I so understood, Mr. Dorsen, they wanted—it was my impression that the reason I was being advised of this is that they wanted the milk producers to tell me that such a pledge was in fact being reaffirmed, yes.<sup>94</sup>

Taking the three accounts of the 11 p.m. meeting together, it is undisputed that Chotiner, Nelson, and Kalmbach met late on the night of the 24th in Kalmbach's room in the Madison Hotel, and that they referred to milk producer contributions. On other matters, the evidence can be summarized as follows:

(a) *The purpose of the meeting.*—There is no evidence to corroborate Chotiner's account of his conversation with Ehrlichman or of the purpose of the meeting with Nelson and Kalmbach; in fact, there is substantial evidence that tends to refute it. Ehrlichman says that although he was aware of occasional problems of communication between Colson and certain other interest groups, he does not remember any such problem involving the milk producers or their representatives.<sup>95</sup> Contrary to the versions of Chotiner and Kalmbach, Ehrlichman denied telling Chotiner to meet with the dairy people, and went on to say: "I don't recall ever steering Chotiner to Kalmbach."<sup>96</sup>

Haldeman, too, was not aware of any trouble between Colson and the dairymen.<sup>97</sup> And, as stated above, Nelson and Kalmbach testified that they recalled no such reference at the meeting. If, as Chotiner said, Harrison was the subject of the meeting, it is strange that, according to Harrison, Chotiner did not inform him of the meeting for 1½ years—until December 1972, at the time Chotiner's deposition was taken in *Nader v. Butz*.<sup>98</sup> Nelson's and Kalmbach's versions indicate that the purpose of the meeting was to reaffirm the pledge and to discuss dairy contributions. Kalmbach's account of the arrangements for the meeting—beginning on the 23d—is further corroborated by his typewritten agenda.

(b) *Discussion of the price support announcement.*—Kalmbach makes clear that Chotiner told him at the meeting that the price support announcement would be the next day. Nelson says that, on the 23d, and again on the 24th, Chotiner also told him of the possible announcement, apparently based on information "from the President or someone close to the President."

The question must be asked whether, contrary to his account, Chotiner, a former White House counsel and a longtime friend of the President, was in fact told—either by Ehrlichman or Colson or both—of the imminent price support announcement. Ehrlichman certainly knew of the decision in advance—indeed, he was present when it was made<sup>99</sup>—and he (at the direction of the President) and then Chotiner in fact met with Colson less than 1 hour after the President made the decision on the afternoon of the 23d.

<sup>94</sup> Kalmbach, 17 *Hearings* 7812–15.

<sup>95</sup> Ehrlichman, 16 *Hearings* 7392.

<sup>96</sup> Ehrlichman, 16 *Hearings* 7391. Kalmbach testified to his conversation and meeting with Ehrlichman on March 23 and 24 after Ehrlichman was interviewed about his involvement in the milk fund, and Ehrlichman was therefore not questioned about Kalmbach's account of those contacts.

<sup>97</sup> Haldeman, 16 *Hearings* 7169.

<sup>98</sup> Harrison, 17 *Hearings* 7690–91.

<sup>99</sup> Ehrlichman, 16 *Hearings* 7392. See White Paper, 17 *Hearings* 8080.

(c) *Relation between contributions and the price support announcement.*—Further questions then arise: was there a link between the announcement and the reaffirmation of the pledge? If so, why was the reaffirmation sought and what was its significance?

As set forth in his testimony quoted above, Kalmbach was informed that the pledge had been reaffirmed "in view of" the upcoming announcement. Kalmbach also makes clear that by the time he became involved on the 24th, both matters—the reaffirmation and the announcement to which it was linked—were already certain; that is, at that point the announcement was set and the pledge had already been reaffirmed to someone other than himself. In fact, he believes he was told at the 5:30 p.m. meeting on the 24th with Ehrlichman that he would receive the reaffirmation at the 11 p.m. meeting.

As for Nelson, he says he was notified of a possible increase and of the need for a reaffirmation of the pledge at the same time—but on the 23d, from Chotiner. While Nelson has denied that there was any obligation because of the price support increase, he expressed the opinion that the difference between, on the one hand, making contributions by way of gratitude for action taken by the administration and, on the other, making the payments in fulfillment of an obligation, was to some extent "a matter of semantics."<sup>1</sup> Moreover, he explained that he felt his refusal to reaffirm would have had an adverse impact on price supports and other matters of concern to dairy farmers.

If the dairymen knew in their own minds that they were willing to meet their commitments, the question arises as to why was the reaffirmation sought by Ehrlichman at that time? It should be noted that as of March 23, 1971, over 7 months had passed since the time the \$2 million pledge was first discussed by the dairymen with Colson (and communicated to the President) and 5 months since the meeting at the Madison Hotel was held with Colson, Evans, and Kalmbach to arrange for the contributions. In the intervening period, the milk producers' attempts to secure a price support increase from the administration had been rebuffed, and a boycott of Republican fundraising efforts was being seriously contemplated by at least several dairy leaders. Certain White House and campaign officials may thus have genuinely feared a loss of dairy support. If that developed, it would have meant a loss to the President's campaign of that \$2 million from the milk producers at a time when the President's fundraisers were trying to raise "early money" for the campaign while the President trailed Senator Muskie in a leading Presidential poll by a full five percentage points.

Moreover, since the dairy lobby had sought an increase to 90 percent of parity, it might not have appeared certain to White House and campaign officials that an increase by the President to 85 percent would "get them off our backs", that is, satisfy the milk producers and assure the President of the milk producers' campaign support. When viewed in that light, the contemporaneous acts of (1) notifying the dairymen that an increase to 85 percent was imminent and (2) soliciting a reaffirmation of the pledge, would indeed have been critical<sup>2</sup> and sufficient to resolve the mutual concerns of White House and

<sup>1</sup> Nelson, 15 *Hearings* 6695.

<sup>2</sup> Indeed, while the milk producers proceeded after the March 1971 decision to openly contribute to the President's campaign, they were secretly providing corporate assistance to certain Democratic Presidential candidates, as detailed in another portion of the Report.

dairy industry officials with respect to both the price support increase and the dairy contributions to the President's campaign.

(d) *Statutory Restrictions*.—In evaluating these events, it should also be noted that it is a Federal felony for a public official to solicit, accept or agree to receive anything of value "in return for . . . being influenced in his performance of any official act or . . . being induced to do or omit to do any act in violation of his official duty" or for any person to offer anything of value to a public official for such purpose.<sup>3</sup> Moreover, it is a felony for a person to offer to a public official or for a public official to solicit, accept or agree to receive anything of value for himself "for or because of any official act performed or to be performed" by such official.<sup>4</sup> Finally, if anything of value is offered "for or because of" an official act even if it has no impact on that act and the official responsible for the act accepts it with that knowledge, the official may violate the Federal bribery statute.

#### 5. NELSON-PARR CONVERSATION

The evidence that an arrangement was confirmed at the Chotiner-Nelson-Kalmbach meeting is further corroborated by testimony concerning an incident that appears to have followed the meeting. Parr testified on December 21, 1973, that sometime on the night of March 24, after the Republican fundraising dinner, Nelson spent about 1½ hours away from Parr and the rest of the milk producers.<sup>5</sup>

Parr testified about his conversation with Nelson when he returned:

Mr. WEITZ. When he came back, did you ask him where he had been?

Mr. PARR. Yes, sir.

Mr. WEITZ. What did he tell you?

Mr. PARR. None of my business.

Mr. WEITZ. Did he tell you anything further referring to the meeting or what he may have found out?

Mr. PARR. Yes. . . . He was optimistic towards the price support.

Mr. WEITZ. What did he say?

Mr. PARR. He said that—gave me the impression that he was optimistic, completely optimistic about the price support.

\* \* \* \* \*

Mr. WEITZ. It was pretty clear that it was going to be increased, not just, "gee, I hope, or we have got a good chance," but pretty certain?

Mr. PARR. Something along that line. Yes sir.<sup>6</sup>

When asked about the reason for the dairy commitment and contributions, Parr replied:

Mr. SANDERS. Did you ever state to anyone in the White House or in the reelection campaign of the President, that AMPI or the other dairy co-ops would contribute a certain amount of money to the President's reelection, if the milk price-support level was raised in March 1971?

<sup>3</sup> 18 U.S.C. § 201(b), (c).

<sup>4</sup> 18 U.S.C. § 201(f), (g).

<sup>5</sup> Parr, 15 *Hearings* 6824.

<sup>6</sup> Parr, 15 *Hearings* 6823.

Mr. PARR. No, sir.

Mr. SANDERS. You never made any such representations?

Mr. PARR. No, sir.

Mr. SANDERS. To your knowledge, did Mr. Nelson?

Mr. PARR. No; not to my knowledge.

Mr. SANDERS. To your knowledge, did any other responsible official in AMPI?

Mr. PARR. No, sir.

Mr. SANDERS. Or any of the other dairy co-ops?

Mr. PARR. No, sir, not that I know of.

Mr. SANDERS. No doubt you have some appreciation for the fact that substantial contributions followed in 1971 and 1972 to the Nixon reelection, and an observer might feel from the fact that those heavy contributions were made that there is some relationship between those two events.

If those latter contributions were not made as a result of a commitment to make them in return for an increase in the support, why in fact were they made?

Mr. PARR. As I have testified, we were going to make substantial contributions, and we made them.

Mr. SANDERS. In other words, it was something to the effect that you have said before, that you support persons who have helped you?

It is not a matter of a commitment in advance, but it is a matter of being willing to help those who have helped you?

Mr. PARR. That's the way that I always was taught.<sup>7</sup>

Nelson testified that when he returned to his hotel suite after the meeting with Kalmbach and Chotiner, Parr and perhaps others were present. Although he is certain he spoke to Parr, he does not believe he told him of the meeting.<sup>8</sup>

The next day, the 25th, the price support increase was announced. Kalmbach testified that the same day he met with Ehrlichman and reported to him that he had met with Chotiner and Nelson who had reaffirmed the commitment.<sup>9</sup>

## H. MARCH 25 PRICE SUPPORT DECISION AND THE AFTERMATH

On March 25, the USDA announced the decision to raise the price support level. The reaction to the increase was immediate—many officials at the Department of Agriculture were shocked and disheartened; the milk producers were elated and within 1 week, initial steps were taken to contribute \$250,000 to the President's campaign.

### 1. THE MARCH 25 ANNOUNCEMENT

The March 25 announcement of the price support increase was issued in the form of a press release. OMB Assistant Director Rice said that he and Whitaker reviewed the release before its issuance,

<sup>7</sup> Parr, 15 *Hearings* 6881-82.

<sup>8</sup> Nelson, 15 *Hearings* 6574-75.

<sup>9</sup> Kalmbach, 17 *Hearings* 7811. According to Ehrlichman's logs, Kalmbach met Ehrlichman and some other individuals for lunch at noon on the 25th. Kalmbach's agenda indicated it was originally scheduled for 1:00 p.m. Kalmbach says that although they discussed matters unrelated to the milk producers, he took the opportunity to tell Ehrlichman, privately, that the milk producers' pledge had been reaffirmed the previous evening.

although the announcement was prepared and issued with apparently little or no consultation with the line officials at USDA responsible for the price support program.

The USDA release, setting the price support level at \$4.93, or approximately 85.1 percent of parity,<sup>10</sup> presented the following single justification:

Secretary Hardin stated that there is a constant analysis of the milk production situation, and that farmer costs have escalated sharply particularly in concentrate feed which has gone up \$10 to \$20 per ton. Farmers have no way to cut other costs to compensate for those which have risen.<sup>11</sup>

As discussed above, the increase in farmer costs had been argued to Hardin prior to the March 12 decision not to increase price supports. Moreover, there had, in fact, been no new economic data developed by either USDA or the milk producers between the first and second decision,<sup>12</sup> and the USDA line officials normally responsible for price support matters had no input in the "constant analysis" to which Hardin referred. Although Under Secretary Campbell could not point to any specific reconsideration of the economic data at the Department, he observed that reasonable men could arrive at different conclusions on an appropriate price support level on the basis of economic data available in March 1971.<sup>13</sup>

On March 7, 1972, Hardin executed an affidavit in the civil case of *Nader v. Butz*, in which he presented his account of the circumstances of and the reasons for the second decision. He stated that:

The decision to set the price support level at \$4.93 per cwt. was based entirely on a reconsideration of the evidence on the basis of the statutory criteria.<sup>14</sup>

He specifically denied that the decision had been based on any consideration other than those outlined in his affidavit. However, he made no reference whatsoever to the fact that it was the President who announced the decision at the afternoon meeting on March 23 which Hardin attended, and that the President's decision was based "first and foremost" on grounds other than the economic merits.<sup>15</sup>

Sidney Cohen, the ASCS official responsible for preparing milk price support dockets and who prepared the docket for the March 12 decision, was not involved prior to the March 25 public announcement in the preparation of either the press release or an amended docket, a procedure he considered somewhat unusual.<sup>16</sup>

When Cohen was asked shortly after March 25 to prepare an amended docket after the decision was announced, he was told he was "to keep it as brief and simple as possible."<sup>17</sup> He complied with a two-

<sup>10</sup> Undersecretary Campbell said in a staff interview that the \$4.93 figure, rather than \$4.92 (85 percent of parity) was proposed to "confound the experts" who relied on the parity concept. As discussed in Section IV.I, below, this extra penny exceeded the level in almost every pending bill before Congress, and was worth an estimated additional \$2 million to \$10 million to dairy farmers.

<sup>11</sup> Cohen Affidavit, Exhibit C, 17 *Hearings* 7875.

<sup>12</sup> See Vol. 117, pt. 7 *Congressional Record* 8625 (1971) (Remarks of Senator Allen).

<sup>13</sup> Campbell, 17 *Hearings* 7784.

<sup>14</sup> Hardin Affidavit, 17 *Hearings* 7919.

<sup>15</sup> White Paper Press Release, 17 *Hearings* 8073.

<sup>16</sup> Cohen Affidavit, 17 *Hearings* 7847-50.

<sup>17</sup> *Ibid.* According to Cohen's superior, Keister Adams, Adams was told by Carl Farrington, Deputy Director of Commodity Operations at ASCS, to have an amended docket drawn up with "the less said the better."

page docket including a one paragraph "justification" which referred "to increasing labor, waste disposal, and other costs on dairy farms,"<sup>18</sup> but not specifically to Hardin's sole justification in the March 25 press release, rising feed costs. The docket was not approved by the CCC Board until May 12, 1971. According to USDA officials, including Cohen, Don Paarlberg (Director of Agricultural Economics), and Clarence Palmby (Assistant Secretary for Commodities), this was the first time in the history of the milk support program in which an increase was announced before the original level was implemented and given an opportunity to take effect.<sup>19</sup> Cohen's aide, S.E.T. Bogan, says there was a certain amount of "shock and unhappiness" at USDA over the decision, and USDA Economist Anthony Mathis says that those who worked on the original docket were "horror stricken" and that there were no technical reasons for the reversal.<sup>20</sup>

Paarlberg was particularly upset, because he felt at the time—and still did when he testified before the Select Committee—that the decision was not economically justified and that it put Hardin in the most embarrassing situation of being reversed in so short a time by industry action. Paarlberg was also deeply concerned because of the rumors that milk producers' money had played a role in the administration's reversal.<sup>21</sup>

Paarlberg explained his concern as follows:

I am an official of this Government, and I like to think that decisions are made on the basis of the merits of the case or on the basis of political forces as they customarily operate and as they are accepted, and the departure from or the indications of departure from that kind of deportment was a matter of concern to me.<sup>22</sup>

Paarlberg received what he considered "indications of departure from [customary] deportment" when, some weeks after the decision, Palmby told him that contributions to President Nixon's reelection campaign was a factor in the reversal.<sup>23</sup> Although Palmby did not recall such a conversation and says he knew of no such facts, he did say that he felt bad about the reversal and may have "spouted off" about its effect on then-pending international trade negotiations.<sup>24</sup>

Paarlberg, who has known Palmby for over 15 years, and who testified he did not believe it was Palmby's habit to engaged in "loose talk," took the conversation quite seriously and told only his wife about it.<sup>25</sup> Since Paarlberg felt there was nothing more he could do about the matter and that it was particularly "difficult" and "unpleasant" for Hardin, he never discussed it again with either Hardin or Palmby.<sup>26</sup>

Whether or not Palmby had any basis for the remark he appears to have made to Paarlberg, the fact that such a remark could have been made—and accepted—is indicative of the effect the price reversal had on the morale of the Department of Agriculture.

<sup>18</sup> Cohen Affidavit, Exhibit C, 17 *Hearings* 7879.

<sup>19</sup> *Ibid.* Palmby, 16 *Hearings* 7145-46; Paarlberg, 16 *Hearings* 7522.

<sup>20</sup> Bogan and Mathis interviews.

<sup>21</sup> Paarlberg, 16 *Hearings* 7521-22. Paarlberg testified on March 13, 1974; the substance of his testimony was obtained in a staff interview on January 18, 1974.

<sup>22</sup> Paarlberg, 16 *Hearings* 7526.

<sup>23</sup> Paarlberg, 16 *Hearings* 7524.

<sup>24</sup> Palmby, 16 *Hearings* 7148.

<sup>25</sup> Paarlberg, 16 *Hearings* 7524-25.

<sup>26</sup> Paarlberg, 16 *Hearings* 7523, 7526.

## 2. MILK PRODUCER REACTION TO THE DECISION

In light of the circumstances surrounding the milk price support increase, it is understandable that, like some USDA personnel, the milk producer officials who had participated in the events leading to the decision apparently believed there was a *quid pro quo*. In a letter to a farmer-member of Mid-Am, written a few days after the decision, Hanman stated:

Mid-Am and AMPI, with some help from DI, got this reversal from the Nixon administration on the price support level. And I can assure you, that the TAPE and ADEPT programs, as well as SPACE (DI's program) played a major part in this administrative decision. This just proves that a minority, regardless of its number, if it is well organized, dedicated, and adequately financed, can prevail.<sup>27</sup>

William Powell, President of Mid-Am and one who attended the meeting with the President, was even more blunt in a letter to another dairy farmer in assessing the impact of the dairy trust contributions:

The facts of life are that the economic welfare of dairymen does depend a great deal on political action. If dairymen are to receive their fair share of the governmental financial pie that we all pay for, we must have friends in Government. I have become increasingly aware that the sincere and soft voice of the dairy farmer is no match for the jingle of hard currencies put in the campaign funds of the politicians by the vegetable fat interests, labor, oil, steel, airlines, and others . . .

On March 23, 1971, along with nine other dairy farmers, I sat in the Cabinet Room of the White House across the table from the President of the United States, and heard him compliment the dairymen on their marvelous work in the consolidating and unifying of our industry and our involvement in politics. He said, "You people are my friends and I appreciate it." Two days later an order came from the U.S. Department of Agriculture increasing the support price for milk to 85 percent of parity, which added from \$500 to \$700 million to dairy farmers milk checks. We dairymen cannot afford to overlook this kind of economic benefit. Whether we like it or not, this is the way the system works.<sup>28</sup>

Within 1 week after the price-support increase, (1) TAPE took steps to lend ADEPT \$50,000 to contribute to Republican committees (the subject matter of the earlier Louisville airport meeting with Alagia) and (2) 100 committee names were sent by Harrison to Nelson for a \$250,000 contribution to be made for the President's reelection. Within a month's time, TAPE checks were drawn, each for \$2,500, to 76 of the committees. Although these checks were voided and the process eventually took several more months to complete, by September 1971 TAPE had contributed to 75 committees and the other two dairy trusts to 18, for a total contribution of \$232,500 to 93 committees.

<sup>27</sup> Hanman letter, 17 *Hearings* 8139.

<sup>28</sup> Powell letter, 17 *Hearings* 8141-42.

A more detailed discussion of these contributions is presented below in section V.B.

In the course of this contribution activity, there were repeated references by the milk producers to the fact that these contributions were part of a commitment which, according to some, was made in exchange for the increase by the President. For example, in the course of preparing to make those contributions to the President's campaign in April (several weeks after the price-support decision), Sarah Bezdek, Bob Lilly's secretary, says she was told by Lilly that "this is what we agreed to do . . . to get the price support raised" and "this is the way they [the Republicans] wanted it."<sup>29</sup>

Marion Harrison, in a letter to Nelson in June 1971, forwarding the names of some of the first 100 committees for the series of \$2,500 contributions, stated, "Sometimes it is difficult to honor a commitment."<sup>30</sup>

When questioned concerning his understanding of the circumstances of the commitment, Harrison testified:

Mr. WEITZ. Do you know whether the matter of political contributions or this commitment or intention was ever discussed with any representatives in relation to the milk support?

Mr. HARRISON. Not to my knowledge.

Mr. WEITZ. No one ever told you about any conversation?

Mr. HARRISON. No.

\* \* \* \* \*

Mr. SANDERS. Do you know of any facts that would prove or tend to prove that the March 25, 1971, decision to raise the support level for milk was based on any promise, agreement, understanding, or commitment that the dairy trusts or any of their affiliates would provide funds to a certain level for the reelection of President Nixon?

Mr. HARRISON. I know of no such fact. . . .<sup>31</sup>

Gary Hanman, in a report to the ADEPT committee in September 1971, referred to the \$15,000 ADEPT contribution to 6 of those same 100 committees as "part of the continuing commitment which we had with the Administration."<sup>32</sup>

Hanman explained his use of the term "commitment":

Mr. WEITZ. And the contributions that were in fact made by ADEPT were made as a part of the general commitment to the President or in support of the President, and not in exchange for or as part of the commitment specifically for the milk price support decision in 1971?

Mr. HANMAN. That's right.<sup>33</sup>

In September 1971, after the contributions were made and adverse publicity arose with regard to a possible connection between the price support decision and the contributions, Ted Van Dyk, one of AMPI's consultants, cautioned Parr about AMPI's activities. According to Van Dyk, Parr explained that they made the contributions to the

<sup>29</sup> Bezdek Interviews, March 14, 1974, and April 8, 1974.

<sup>30</sup> Harrison Exhibit 3, 14 *Hearings* 6287.

<sup>31</sup> Harrison, 14 *Hearings* 6270, 6280.

<sup>32</sup> Hanman Exhibit 2, 14 *Hearings* 5903-04.

<sup>33</sup> Hanman, 14 *Hearings* 5894.



President because they had no choice—they felt they “had to” do it.<sup>34</sup>

Looking back on their effort in March to secure an increase, George Mehren says that Nelson observed that “. . . of all the people on the White House staff, the one that could really make the ball move was Mr. Chotiner.”<sup>35</sup>

The milk producers also were willing to show their gratitude to John Connally, approximately 1 month after the favorable price support decision. As discussed in section V.A., AMPI delivered \$10,000 in cash to Jacobsen who indicated it was for Connally's use. Later in the year, another \$5,000 was allegedly delivered to Jacobsen for the same purpose.

### 3. WHITE HOUSE TREATMENT OF THE COMMITMENT AFTER MARCH 25

A number of White House memos beginning shortly after the price support increase was granted indicate that White House and FCRP officials anticipated a substantial amount of money from the milk producers and concluded that a new pledge had been made by the milk producers to contribute as much as \$90,000 each month beginning on April 1—just 1 week after the price support increase.<sup>36</sup>

In the months that followed, Haldeman met with Dean to discuss what was to be done with the “milk money.” Throughout, there was a concern about concealing the fact that the milk producers were substantial contributors to the campaign. Ultimately, as discussed below, the 1971 contributions were publicized and speculation of a possible *quid pro quo* ensued. Only then, late in 1971 and early 1972, were the contributions first discontinued for a time and then finally cut off just prior to April 7, 1972, the effective date of the new campaign disclosure law.

### I. IN DEFENSE OF THE PRESIDENT—A “GUN TO OUR HEAD”

The White House White Paper on “The Milk Price Support Decision” was issued earlier this year “to rebut the allegation that a promise of political contributions from the dairy industry induced the President to increase the milk price support level” in March 1971. Conceding that the decision was not based solely on economic arguments which was the initial administration position,<sup>37</sup> the rebuttal takes up three themes: (1) the principal reason for the President's decision was congressional pressure—a “gun to our head”<sup>38</sup>—in the

<sup>34</sup> Van Dyk, 16 *Hearings* 6989.

<sup>35</sup> Mehren, 16 *Hearings* 7237.

<sup>36</sup> In a memorandum from Strachan to Haldeman dated September 11, 1971, Strachan refers to the \$232,500 contributed by the milk producers at that point and describes it as “slightly more than one-half of the amount that should have been delivered on the commitment (\$90,000 per month.)” Strachan Exhibit 4, 16 *Hearings* 7483. This works out to an expected amount of \$450,000 by September 1 which, at a rate of \$90,000 per month, would date the commitment 5 months prior to September 1—in other words, April 1, 1971, the effective date of the milk price support increase. This contribution pattern would, if continued until the election, have amounted to nearly \$2 million—to fulfill the original pledge. Kalmbach stated he may have learned of the \$90,000 commitment at the March 24 evening meeting with Chotiner and Nelson. Kalmbach, 17 *Hearings* 7603. Nelson does not think he had discussed it that evening, but acknowledged prior discussions with Colson about spreading the contributions over a number of months in order to avoid the publicity over a large lump-sum payment. Nelson Interview.

<sup>37</sup> See USDA Press Release, March 25, 1971, Cohen Affidavit, Exhibit C, 17 *Hearings* 7875; and discussion in Section IV.H, *supra*; Hardin Affidavit, 17 *Hearings* 7916–19.

<sup>38</sup> In the President's press conference on November 17, 1973, before the Associated Press Managing Editors, the President first referred to congressional pressure on milk price support legislation as a “gun to our head.” The White Paper, 17 *Hearings* 8081, refers to this “gun to our head.”

form of bills requiring an increase coupled with a desire on the President's part to avoid a veto which might cost him farm support in his reelection effort; (2) the economic merits of the case for an increase were taken into account, and events since the time of the decision have shown that the increase was, in fact, "in the national interest;" and (3) although the President was motivated by "traditional" political considerations, the milk producers' political activity, including their \$2 million pledge and contributions, did not influence the President's decision and were in any event, small compared to the President's overall fundraising effort.

The committee submits the following analysis of the contentions in the White Paper.

#### 1. CONGRESSIONAL PRESSURE

The White Paper suggests that a price-support bill—possibly even veto-proof—was certain to pass Congress and that the President, in order to retain administrative flexibility and farmers' political support, adopted a compromise approach. The White Paper's analysis overstates the extent and timing of congressional support. Moreover, the President's action was not a compromise measure but, in fact, was more favorable to dairy farmers than nearly all the pending bills.<sup>39</sup>

##### *a. Extent of Congressional Support*

The White Paper appears to overstate the strength of congressional efforts as it affected the President's decision. In its calculation of the Senators and Congressmen who "put a gun" to the President's head, the White House includes a number of bills and cosponsors not identified until after the President announced his decision. The White Paper states:

Immediately following the Agriculture Department announcement of March 12, 1971, a campaign was initiated on Capitol Hill by both Democrats and Republicans for mandatory legislation to increase the parity level to 85 or 90 percent. *Thirty separate bills* were introduced in the House of Representatives between March 16 and March 25 with this specific goal in mind. *One Hundred and twenty-five Members of the House of Representatives* introduced or cosponsored legislation to support the price of manufacturing milk at a level or not more than 90 percent nor less than 85 percent.

With 29 Senators and more than 100 Congressmen actively spearheading the effort to achieve an increased parity rate for the dairy industry, it thus became increasingly clear that mandatory legislation would be enacted \* \* \*

(Emphasis in original.)<sup>40</sup>

In fact, the figure "30 separate bills" mentioned in the White House press release includes 8 bills not introduced until after the President

<sup>39</sup> Although not referred to in the White Paper, Congressional support was also manifested by letters to USDA. See Section IV.B.2.

<sup>40</sup> White Paper, 17 *Hearings* 8078-79.

made his decision.<sup>41</sup> Furthermore, of the 125 Members of the House of Representatives mentioned above, 32 Congressmen did not cosponsor legislation until after the President's decision.

Whereas the White Paper states that "29 Senators . . . [were] actively spearheading the effort," only 2 Senators introduced the legislation and not all of the additional 27 cosponsors had added their names to the bills by March 23, when the President acted. Senator Gaylord Nelson (Democrat, Wisconsin) introduced S. 1277 on March 16, 1971 to support the price of milk at no less than 85 percent of parity. On March 19, 1971, Senator Hubert Humphrey (Democrat, Minnesota) introduced his own bill S. 1294 calling for an 85 percent minimum. Senate procedure permits a Senator to add his name to a previously introduced bill,<sup>42</sup> and records of the Senate enrolling clerk indicate that the 27 cosponsors were not formally added until April 5, 1971, 13 days after the President had made his decision.<sup>43</sup> Records of certain Senators indicate that at least several Senators communicated their position to Nelson by March 23 but that at least one did so afterward but before April 5. Thus, available records do not support the White House contention that 29 Senators had publicly supported the bill by March 23.

But even if it is assumed that most of these 27 Senators (1 Republican and 26 Democrats) decided between March 16 and March 23 to cosponsor the Nelson bill and that they communicated their decision to the White House, the total number of supporters, including Senators Nelson and Humphrey, represented less than one-third of the Senate.

The White Paper states that by March 25, 125 Congressmen cosponsored legislation to support the price of milk at not less than 85 percent. The White Paper goes too far in two respects. First, the actual number of cosponsors was 118; the apparent error in the White Paper probably resulted in part from double-counting those members who cosponsored more than one bill. Second, by the afternoon of March 23 (the more relevant date when, according to the White Paper, the President announced his decision), only 90 Congressmen, or 21 percent of the House membership had cosponsored bills calling for support at 85 percent or more of parity.<sup>44</sup>

#### *b. The Likelihood and Timing of Passage*

One can only speculate whether any of the bills would have passed both Houses of Congress. To some extent, the number of cosponsors indicates support for the increase, and the White House White Paper, itself, lays great stress on the number of sponsors. In addition, influ-

<sup>41</sup> The Committee has drafted a chart summarizing information relevant to all legislation introduced in early 1971 dealing with the milk price support level. See Legislation Chart, 17 *Hearings* 8143-46. It should be noted that the chart includes bills which were introduced after the President informed his staff of his decision on March 23, 1971, but before the President's decision was announced on March 25.

<sup>42</sup> This procedure is not followed in the House. No Congressman can be added as a cosponsor to a bill which has already been introduced. This accounts for the fact that Congressman Smith (D-Iowa) introduced four identical bills with different cosponsors.

<sup>43</sup> Although the cosponsors decided to go on the bill prior to April 5, most of them have indicated through their staffs to the Select Committee that their records do not show either when the decision to cosponsor was made or whether it was communicated to the White House.

<sup>44</sup> In his November 17 press conference, the President stated that "102 Members of Congress signed a petition demanding not 85 percent of parity but 90 percent support price . . ." This statement is grossly inaccurate and is contradicted by the White Paper. As noted above, only two Congressmen introduced bills calling for a minimum support price level of 90 percent.

ential Members of Congress, including some key members of the Democratic congressional leadership, supported the bills. As noted above the congressional support resulted at least in part from an intensive lobby by the dairy co-ops of dairy States representatives, and there is a question whether the bills would have gained sufficient support for passage from representatives of other areas.

Enactment of a price support bill, if forthcoming at all, was not imminent in March 1971. The 1971 activities on Capitol Hill must be evaluated within the context of the overall legislative process. Under normal circumstances, several events precede the enactment of legislation dealing with the milk price support level. After a bill is introduced, it is referred to the committee responsible for agriculture bills of the House in which it is introduced. The committee requests from the Department of Agriculture a report evaluating the bill. In order to acquire sufficient information upon which to base its report to the full Senate or House, the committee usually conducts hearings on the bill. Considering the evidence gathered during its hearings, the committee submits a report on the bill to the full Senate or House. The bill must, of course, pass both Houses of Congress before it is sent to the President for his consideration. Of course, on occasion, bills are moved rapidly through the legislative process.

As of March 23, 1971, no hearings had been conducted or even scheduled for the purpose of considering milk price support legislation. At that point, the Department of Agriculture had not issued a report on any of the bills, although a USDA report was requested by the Senate and House Agriculture committees on three bills setting an 85-percent minimum, S. 1277, S. 1294, and H.R. 6188. Four months later, in July 1971, the Department issued an unfavorable report in H.R. 6188.<sup>45</sup> In light of the chronology of events prior and subsequent to March 23, the President's alleged reaction was, at best, premature.

### *c. The Question of a Presidential Veto*

The White Paper does not say that the President could not have successfully vetoed a price support bill.<sup>46</sup> It states that such a move would have been "foolish and futile" and "politically disastrous"—that he "could not veto it without alienating the farmers—an essential part of his political constituency."<sup>47</sup>

Here again, the White Paper contradicts the President's own prior statement. In his November 17 press conference, the President stated that he was advised that Congress would be able to override his veto of any milk price support legislation. However, in the above quoted passage from the White Paper, it is evident that the President questioned, not his ability, but the political wisdom with respect to his chances for re-election, of exercising his veto power.

It is not clear why the President considered it "foolish and futile"

<sup>45</sup> The report said that, in view of the March 25 announcement, the bill would have been "without effect," and that, in any event, the Department opposed further restrictions on the discretion vested in the Department for commodity programs.

<sup>46</sup> As noted above, there is a question whether a bill would have passed. The likelihood of Congress overriding a Presidential veto was even more remote, and, in fact, nine of eleven vetoes by President Nixon up to March 1971, had not been overridden by Congress. See Veto Chart, 17 *Hearings* 8149 for an analysis of congressional attempts to override the President's vetoes from January, 1969 to March, 1971.

<sup>47</sup> White Paper, 17 *Hearings* 8079.

to stick by a long-standing agricultural policy of his administration of moving "away from Federal policies which provide massive subsidies to agriculture."<sup>48</sup> The emphasis on the White Paper and seemingly at the March 23 meeting was, thus, not on the possibility of a veto being overridden but, rather, on the "politically disastrous" impact of a veto on the President's "political constituency."

#### *d. Impact of the President's Decision*

With regard to the impact of the President's decision on price support policies, the President's action was no less "mandatory" than the bills introduced in Congress. As noted above, the price support level announced by the administration in March of each year may not subsequently be lowered during that year. Therefore, the increase in the price support level established by the President was effective for 1 year, the same time period proposed in each of the bills introduced in response to Secretary Hardin's initial announcement.

More than neutralizing congressional demands, the President exceeded the impact of a legislated price support increase in two significant respects. First, the administration established a support level of \$4.93 per hundredweight, a level 1 cent higher than that called for in virtually every bill introduced in 1971. Various experts, including the Department of Agriculture's leading economist, Dr. Paarlberg, have estimated that the total cost of the March 1971 increase was at least \$50 million and perhaps \$300 million<sup>49</sup> and might have been much higher were it not for the general inflationary trend. Based on this estimate, the 1 cent addition to the suggested 85 percent level was worth \$2 million to \$10 million more than 34 of the 36 bills introduced in Congress.

Second, the President's decision was of even greater impact on consumer milk prices—because of its timing—than a comparable minimum support level which might have been legislated later by Congress. As noted above, some time was likely to have passed following March 1971 before Congress and the President (and, in the event of a Presidential veto, Congress again) would have been able to enact milk price support legislation. During the so-called spring "flush" period, when milk production and the supply of milk are customarily greatest, milk prices are at their nadir; later in the year, milk prices customarily rise and the support level has little or no direct effect on prices producers (and consumers) pay for milk. In 1971, a legislated increase in the support level almost assuredly would not have become effective by April 1 and would thus have had less impact on the cost of milk to consumers and the Government during at least part of the spring "flush period" as well as the remainder of the year. In contrast, the President's decision, in March, raised the support level just in time to have the maximum impact on milk prices.

In the President's November 17 press conference before the Associated Press managing editors, the President said that his concern, in March 1971 was that "I don't want to have the price jiggled up here if we can keep it and get the supply with the present support price."

<sup>48</sup> White paper, 17 *Hearings* 8078. That a high level of farm subsidies was a policy of the Democrats rejected by the administration is another reason why the President should have been prepared to resist Democratic congressional pressure.

<sup>49</sup> Paarlberg, 16 *Hearings* 7520; Campbell, 17 *Hearings* 7785-86.

## 2. JUSTIFICATION ON THE MERITS OF THE PRESIDENT'S DECISION

As explained above, there were arguments advanced by dairy leaders and by certain Members of Congress in March 1971, in favor of a milk price support increase, particularly in view of rising farm costs and falling income, and the Select Committee did not weigh the merits of the economic arguments for and against an increase. The allegation investigated by the committee with respect to the President's decision is not whether he made the right decision but whether he or his aides under his direction made the decision at least in part for the wrong reasons, that is, in contemplation of or because of an offer of political contributions.

Quite understandably, the White House, in its White Paper, does not contend that the economic merits for an increase constituted the sole reason for the President's decision or that it was even one of the two fundamental themes of the March 23 afternoon meeting when the President announced his decision. True, the merits of the case had presumably been presented to the President, and the White Paper says they were a factor upon which the President based his decision.<sup>50</sup> However, at the time the President made his decision, key agricultural experts in the executive branch responsible for the price support program were against a higher price support level on the merits.

The White Paper is willing to assert only that Treasury Secretary Connally argued that the milk industry's case also had merit on strictly economic grounds, and rising costs for dairy producers were mentioned at the March 23 afternoon meeting.<sup>51</sup> In his testimony before the Select Committee before the issuance of the White Paper, Secretary Connally did not recall any reference at the meeting to increased feed costs,<sup>52</sup> the sole justification stated by Secretary Hardin in his public announcement of the increase 2 days later<sup>53</sup> and presumably the strongest economic ground for a price increase. Dr. Rice of OMB recalls no sophisticated economic discussion at the meeting and, in fact, Hardin and Campbell were still opposed at the outset of the meeting to an increase on the economic merits.

Nonetheless, the White Paper attempts to justify the President's decision by claiming that, in hindsight, the decision "proved to be sound economics."<sup>54</sup> The committee questions the probative value of this hindsight justification in view of the issue of a *quid pro quo*. Moreover, the USDA's chief economist, Dr. Paarlberg, disputes the accuracy and relevancy of the White Paper's analysis.

The White Paper refers to the downward trend in milk production in the late 1960's and the decision by Secretary Hardin, in March 1970, to grant a substantial price increase to reverse this trend. It also notes that the 1970 increase—the largest ever granted by an administration at the start of a marketing year<sup>55</sup>—helped to end the decline and that

<sup>50</sup> White Paper Press Release, 17 *Hearings* 8073-75.

<sup>51</sup> White Paper, 17 *Hearings* 8080.

<sup>52</sup> Connally, 14 *Hearings* 6064.

<sup>53</sup> Cohen Affidavit, Exhibit C, 17 *Hearings* 7875.

<sup>54</sup> White Paper, 17 *Hearings* 8086.

<sup>55</sup> March 12 1971 USDA press release, Cohen affidavit, exhibit A, 17 *Hearings* 7852.

the 1971 increase "provided still further assurances against the resumption of a downward trend in production."<sup>56</sup>

The problem with this proof is that it consists of a truism—higher price supports usually mean more production—and, like all truisms, it proves nothing.<sup>57</sup> Of more relevance is the fact that at the time of the increase in March, 1971, there was unanimous agreement among all Government experts (apparently including Secretary Hardin and Under Secretary Campbell) that milk production would rise substantially with a \$4.66 support level, although not quite as much as with a \$4.93 level.<sup>58</sup>

The White Paper argues that the level of Government purchases was at least relatively lower in the 1972 fiscal year—which it asserts is the "fiscal year in question"—than in 1971. In fact, its emphasis on the fiscal year (July 1 to June 30) rather than the marketing year (April 1 to March 31) is in part misplaced. Since milk supply is usually greatest during the spring months (say, April, May, and June) immediately following the price support decision each March, milk prices are more likely to fall to the support level requiring the Government to purchase greater amounts during that period than at other times of the year. Therefore, contrary to the suggestion in the White Paper, the high figures for the 1971 fiscal year (which cover the crucial April-May-June period immediately following the President's decision in March 1971) are at least as relevant to assessing the impact of the President's decision as do figures for fiscal year 1972.

The White Paper tries to minimize the fact of high milk production in 1971-72 by showing a drop in CCC inventories as of January 31, for the years 1968 through 1972.<sup>59</sup> Dr. Paarlberg made several criticisms of that presentation. First, he pointed out that there is nothing

<sup>56</sup> White Paper, 17 *Hearings* 8086. The view of the White Paper puts extraordinary reliance in the ability of supply to increase almost instantaneously in response to an increase in the price level. Obviously, the number of dairy farmers and the productivity of individual cows cannot increase rapidly. While a higher price for milk might occasion a reduction in the number of cows sold for beef, this effect might not be noticeable at a time when the price of beef also was rising. For 1971, the wholesale price index (wpi) for cows sold for commercial purposes increased approximately 10 percent while the wpi for manufacturing milk rose 5 percent.

<sup>57</sup> According to the logic in the white paper, any increase could be viewed as providing "further assurances against the resumption of a downward trend in production."

<sup>58</sup> As of Mar. 5, 1971, the USDA estimated a production increase at the \$4.66 level of 0.5 billion pounds and at the \$4.92 level of 0.9 billion pounds. See Cohen affidavit, exhibit B, 17 *Hearings* 7866. The actual amount of increased production from 1970-71 to 1971-72 fiscal years was 2 billion pounds. See Paarlberg exhibit 2, 16 *Hearings* 7533.

What's more, Government purchases continued at a high level as a result of this increased production—the effect that Hardin, Campbell and others at USDA had predicted if an increase were granted. See Paarlberg exhibit 2, *supra*. The figures, in billions of pounds, are as follows:

	USDA net purchases
1969-70	4.4
1970-71	7.2
1971-72	6.6
1972-73	5.0

Also, a high level of purchases coupled with the higher support price—both resulting from the President's decision—also meant a continuation in 1971-72 of the high cost to the Government of the milk price support program. See Paarlberg exhibit 1, 16 *Hearings* 7532. The figures, in millions of dollars, are as follows:

Fiscal year:	Net support purchases
1969-70	168.6
1970-71	315.4
1971-72	267.0
1972-73	135.8

<sup>59</sup> White Paper, 17 *Hearings* 8087.

to demonstrate that the January date is a representative time of the marketing year. Second, since inventories are a function of both purchases and distribution, these figures do not necessarily prove that the Government bought less—instead, it may have decided to distribute more. Third, even if inventories were low as a result of a low level of production and purchases, Dr. Paarlberg testified that the need for milk for distribution for USDA and other governmental programs is not a proper basis to raise the milk price support level. He pointed out that, if more milk is needed by the Government, the CCC is empowered to go into the market and buy it, instead of pushing up the support level of all milk marketed in the country.<sup>60</sup>

With regard to the inflationary impact of the President's decision, it was worth anywhere from \$50 million to several hundred million dollars to the dairy farmers.<sup>61</sup> The White Paper conceded that the retail price of whole milk rose in 1971–72 but stated that the rate of increase was less than the general rate of inflation, and that without more production occasioned by the President's decision, milk prices would have been even higher.<sup>62</sup>

### 3. MILK PRODUCER CONTRIBUTIONS AND THE PRESIDENT

The White House Paper states that although the President was advised of the milk producers' \$2 million pledge and, on March 23, of their decision to begin making political contributions, this information did not influence his decision that day. To reinforce this denial, it attempts to show (1) that the actual amount of reported milk producer contributions of several hundred thousand dollars to the President's campaign was a relatively insignificant part of the President's campaign effort, and (2) that these Presidential contributions were a relatively small proportion of the total amount of milk producer contribution activity.

The facts are that (1) when the President made his decision, the milk producer commitment represented one of the three largest and earliest pledges to his campaign at a time when he trailed in a leading Presidential poll, and there was every reason to expect that the commitment would be honored; and (2) the milk producers contributed far more to the President than to all other 1972 Presidential candidates combined.

#### *a. Significance to the President of Milk Producer Contributions*

When the President considered the price support decision in March 1971, he was deciding a matter of great financial interest to one of his

<sup>60</sup> Paarlberg, 16 *Hearings* 7527–28.

<sup>61</sup> Campbell set the figure at between \$50 million and \$100 million. Campbell, 17 *Hearings* 7785–86. Nelson, in his yearend report to AMPI in 1971, estimated it at \$300 million. Nelson, 15 *Hearings* 6655. William Powell, President of Mid-Am, put the figure at from \$500 million to \$700 million. Dr. Paarlberg says the \$300 million figure is credible. Paarlberg, 16 *Hearings* 7520. Campbell agreed that different people could reach different conclusions based on the data and that Paarlberg was more qualified to do so than he. Campbell, 17 *Hearings* 7787.

<sup>62</sup> White Paper, 17 *Hearings* 8087. Nelson testified before the committee that during the morning meeting with the President on Mar. 23, the point was made that higher prices to the farmer would mean higher income to them, higher taxes paid by them to the Federal Government, and a reduction in the cost to the Government of a price support increase. Nelson stated that the President seemed to be impressed by this argument. Nelson, 15 *Hearings* 6566. In staff interviews, both Dr. Paarlberg and Dr. Rice characterized the argument as unsophisticated, inasmuch as such an argument would logically support any increase in subsidies. Furthermore, even if there were some validity to the argument and the cost to the Government would be less than anticipated, one important factor is left out of the analysis—the cost to the consumer.



most important contributors. The President knew that the milk producers had pledged \$2 million to his campaign. Even by the standards of the 1972 Presidential campaign, this amount was enormous, representing one of the three largest pledges to his campaign,<sup>63</sup> and a full one-twentieth of his entire projected campaign budget of \$40 million.

Nor did the President and his fundraisers as of March 23, 1971, have any reason not to expect the full amount of the pledge; after all, by that time the milk producers had already contributed \$100,000 in cash in 1969 to the President's chief fundraiser. The events that ultimately led to a cessation of milk producer contributions to the President before the \$2 million pledge was fulfilled did not take place until long after the President's decision in March 1971, and there was no reason to anticipate them at that time. Indeed, as discussed below, Republican fundraisers were still working in early 1972 (and again in October 1972) to obtain first the full \$2 million and then, later, at least \$1 million.

The milk money was particularly important to the President in two other respects. First, the pledge—made over 2 years before the election and apparently reaffirmed on March 23–24, 1971—represented the “early money” which is critical to every campaign.<sup>64</sup>

Second, since the dairy co-op leadership normally made substantial contributions to the Democratic Presidential nominee, and in March 1971, one Presidential poll showed the President trailing the leading Democratic candidate, Senator Muskie, by a full 5 percentage points, the pledge took on an even greater significance.

#### *b. Significance to the Milk Producers of Their Contributions to the President*

According to the White Paper, the milk producers reported contributions to the President's 1972 campaign of approximately \$427,000.<sup>65</sup> In addition, they delivered \$100,000 in cash in 1969, and there is evidence that another \$200,000 was provided to his campaign in late 1972.<sup>66</sup> Taking just the reported contributions, however, they amounted to a substantial portion of their overall contribution activity.

The White Paper tries to minimize the “some \$427,000” by comparing it to contributions of the three dairy trusts to all candidates at all levels. This comparison is misleading since the dairy trusts contributed to hundreds of Federal, State and local candidates—not one of whom reportedly received from the dairymen more than one-sixth of the amount they contributed to the President.

With respect to dairy trust reported contributions in the 1972 Presidential campaign—certainly a more relevant measure of dairy participation in Presidential politics than that used by the White Paper—the dairymen's reported contributions to the President were more than

<sup>63</sup> Kalmbach stated that he had received only two other pledges of similar magnitude—John Mulcahy and Clement Stone each pledged \$1 million for 1971 and \$1 million for 1972, and another \$1 million for 1973 if there was a deficit in the campaign. Kalmbach, 17 *Hearings* 7592.

<sup>64</sup> See Haldeman, 16 *Hearings* 7169–70.

<sup>65</sup> The milk producers reported contributions to the President's campaign of \$332,500, plus \$95,000 to Republican committees that the white paper apparently includes in its computation. See Keema Affidavit, 17 *Hearings* 7959–69; White Paper, 17 *Hearings* 8083.

<sup>66</sup> See Section VII, *infra*.

three times greater than those to all Democratic Presidential candidates combined.<sup>67</sup> What's more, the greater portion (\$237,500) was contributed prior to April 7, 1972—while all Democratic candidates were reportedly receiving slightly more than \$18,000 from the dairymen.<sup>68</sup>

The White Paper claims that the President had in mind "support" of the milk producers only *at the polls* when he made his decision in their favor; by all accounts, however, the "support" they had promised (of which he was aware) and, in fact, provided, included substantial *contributions* to the President's campaign. Perhaps the most cogent argument in this connection are the facts which speak for themselves—as discussed above, at the same time the President was making his decision privately, his top aides were arranging for the milk producers to reaffirm their "support" as a condition for the public announcement of the increase. The dairymen agreed, the announcement was made and, as detailed in the following section, the promised contributions began to flow.

#### V. MILK PRODUCERS' CONTRIBUTION ACTIVITY IN 1971 FOLLOWING THE MILK PRICE SUPPORT DECISION—MONEY FOR CONNALLY, THE PRESIDENT'S CAMPAIGN, AND THE ELLSBERG BREAK-IN

After the favorable price support decision was announced on March 25, 1971, the milk producers turned their attention to honoring their commitment of contributions to the President's campaign. Within 1 week after the announcement, arrangements were underway to contribute another \$50,000 to the RNC committees and to begin giving the first \$250,000 to 100 committees whose link to the President's campaign was kept confidential. Nearly the entire \$250,000 was in fact contributed by early September 1971, at which time AMPI also accomplished one of its long sought-after objectives—the President attended and addressed an AMPI annual convention.

At the time of that convention, an additional contribution was made by the milk producers—at the special request of Charles Colson. Colson testified before a State grand jury that the milk money was used to pay for the break-in of the office of Daniel Ellsberg's psychiatrist, Dr. Lewis Fielding.

Even before these contributions were made, the milk producers made at least one, and perhaps two, payments to Jake Jacobsen for Secretary Connally's use. About 1 month after the milk price support increase was granted, Jacobsen requested and received from AMPI \$10,000 in cash stating it was for Connally, but Connally and Jacobsen denied that Connally accepted the money. There is evidence that another \$5,000 in cash, also from corporate funds, was requested and provided later in the year by Jacobsen for Connally and that these payments were related to Connally's assistance not only in the price support matter, but also other matters, including a Justice Department anti-trust suit against AMPI. Both Jacobsen and Connally have denied any knowledge of the second transaction.

<sup>67</sup> See Keema Affidavit, *supra*.

<sup>68</sup> *Ibid.* Even taking into account alleged corporate contributions to 1972 Democratic Presidential candidates, discussed elsewhere in the committee report, the contributions to the Nixon campaign still far surpassed the total Democratic Presidential campaign activity of the milk producers.

## A. AMPI CASH PAYMENTS FOR CONNALLY

Shortly after Jake Jacobsen had sought—and obtained—the assistance of Treasury Secretary Connally in the effort to secure a price support increase in 1971, Jacobsen sought—and obtained—\$10,000 in cash from AMPI for Connally's use. Both Connally and Jacobsen deny that Connally ever took or used the money and Jacobsen has testified that the \$10,000 remained in his safe deposit box untouched for over 2½ years. However, the committee has obtained documentation from the Bureau of Engraving and the Federal Reserve System indicating that some of the bills of the \$10,000 were not even placed into circulation until almost 2 years after Jacobsen says he placed them in his box.

There is also evidence that Jacobsen acquired another \$5,000 in similar fashion later in the year. Jacobsen denies even requesting, much less receiving, the \$5,000 payment, and Connally denies any knowledge of the \$5,000 matter.

### 1. \$10,000 FOR CONNALLY

#### a. *Lilly's Testimony*

Based on his contemporaneous notes and bank records, Lilly testified that on April 28, 1971—approximately 1 month after the milk price support increase—Jacobsen called Lilly in San Antonio and requested \$10,000 in cash for John Connally.<sup>69</sup> Although Jacobsen says that he asked for the money so that Connally could make personal political contributions, Jacobsen concedes that he told Lilly only that it was “for Connally's use.”<sup>70</sup> He says he made the request “since [Connally] had been helpful to us in the price support thing.”<sup>71</sup>

Jacobsen says he didn't know where Lilly was going to obtain the money.<sup>72</sup> It should be recalled that Jacobsen had participated in the \$100,000 loan in December 1969, and the payback scheme, allegedly involving the use of corporate funds.<sup>73</sup> In addition, Jacobsen requested and received the \$10,000 from Lilly in the form of cash and failed to provide to Lilly committee names to enable TAPE to meet its reporting requirements, virtually obliging Lilly to use corporate, rather than TAPE, funds.

Lilly did. On May 3, he contacted AMPI's principal conduit, Stuart Russell, and asked for \$10,000 without telling him it was for Connally. Because it would necessitate his double-billing AMPI to recoup the money, Russell allegedly asked Lilly whether there wasn't a less “costly” means of getting the money, such as setting up “dummy” expense accounts for AMPI to cover the \$10,000 and eliminate the need for the conduit double-billing AMPI for the \$10,000 as income to the

<sup>69</sup> Lilly, 14 *Hearings* 5961.

<sup>70</sup> Jacobsen, 15 *Hearings* 6421–22.

<sup>71</sup> Jacobsen, 15 *Hearings* 6421. As detailed in Section IV above, Connally was indeed “helpful” in urging the President to grant an increase. According to materials publicly released by the House Judiciary Committee and included in appendix D to the Select Committee's report, Connally reminded the President at the afternoon meeting on March 23, 1971—when the President granted an increase—of the milk producers' substantial contribution activity.

<sup>72</sup> Jacobsen, 15 *Hearings* 6421.

<sup>73</sup> See Section II, *supra*.

conduit and another \$10,000 for his excess taxes.<sup>74</sup> Lilly conferred with Nelson who, according to Lilly, authorized him to borrow the money from the bank, as he had done for the \$100,000 in December 1969. Lilly did so and the loan was eventually repaid by means of the costly scheme of laundering AMPI corporate funds through its conduits.<sup>75</sup>

On May 4, 1971, Lilly borrowed \$10,000 in cash from Jacobsen's bank, Citizens National Bank in Austin, and executed a 60-day note as he had done for the December 1969 loan. When Lilly delivered the cash to Jacobsen at the bank, Lilly says Jacobsen told him he was going to put it in Connally's "cash box" or in his "cash box" and hold it for Connally.<sup>76</sup>

### *b. Jacobsen's and Connally's Testimony*

Jacobsen says that Lilly delivered the money in \$100 bills to him, and that, instead of placing it intact in his box, he took it home and, during the next week or two, changed it at several banks into smaller bills and then placed that money in his safe deposit box. He says he took these steps in mid-1971 "because there are a lot of politicians that do not like to take \$100 bills."<sup>77</sup>

Jacobsen says he then met with Connally sometime in June or July 1971, and told him that he had \$10,000 available from the milk people for Connally's use for personal political contributions. He says that Connally told him that since he was a Democrat in a Republican administration, he felt it was inappropriate for him to contribute to either party and that therefore he refused the money.<sup>78</sup>

Jacobsen says that he kept the money in his box since he "knew we were going to get into this Presidential campaign," and, in the second half of 1972, after Connally had left the administration and headed Democrats for Nixon, offered the money to Connally for Democrats for Nixon.<sup>79</sup> Jacobson, who was assisting Connally in the campaign effort, says that Connally refused without explanation, although Jacobsen assumes the reason was the adverse publicity (discussed below) over the series of \$2,500 milk producer contributions in 1971 to the multiple committees.<sup>80</sup> He failed to reconcile the fact of Connally's alleged refusal in 1972 with Connally's contemporaneous acceptance (arranged by Jacobsen) of \$50,000 for Democrats for Nixon (headed by Connally) from the other two dairy co-ops who had been involved in the same series of 1971 contributions.<sup>81</sup>

Connally's testimony before the committee on this matter is virtually identical to Jacobsen's. He testified that in the latter part of June or early July 1971, Connally met with Jacobsen who told him that the milk producers were prepared to start making contributions to various candidates in the 1972 campaign and that "he had avail-

<sup>74</sup> Lilly, 14 *Hearings* 5961. Like Lilly, AMPI's comptroller, Robert Isham, told the Select Committee staff, even before Lilly testified, that Russell once complained about the conduit scheme and asked whether another system could be used, such as fake expense accounts or the like. Isham interview, *supra*.

<sup>75</sup> See Lilly, 14 *Hearings* 5961-62. Nelson does not recall discussing this matter with Lilly. Nelson, 15 *Hearings* 6648.

<sup>76</sup> Lilly, 14 *Hearings* 5962.

<sup>77</sup> Jacobsen, 15 *Hearings* 6423. Jacobsen testified that, while keeping the money at home, he went to a number of different banks, although not to his own bank, the Citizens' National Bank, to convert the money to smaller bills. He stated that he did this before talking to Connally about the money. Jacobsen, 15 *Hearings* 6423-24.

<sup>78</sup> Jacobsen, 15 *Hearings* 6424-25.

<sup>79</sup> Jacobsen, 15 *Hearings* 6427-28.

<sup>80</sup> Jacobsen, 15 *Hearings* 6428-29.

<sup>81</sup> See section VII.A.1, *infra*.

able \$10,000 in cash" for candidates of Connally's choosing.<sup>82</sup> Connally says he refused and told Jacobsen that as a Democrat in a Republican administration he wanted to be "nonpolitical" and not take "any interest in party partisan politics . . ." Connally says that his refusal "ended it"<sup>83</sup> until the next year when Jacobsen again offered Connally the money.

According to Connally, Jacobsen raised the matter one more time—in 1972 when Connally and Jacobsen were involved with Democrats for Nixon. Connally says he again refused but, unlike Jacobsen's account, he says he did explain his reasons. He says he told Jacobsen that since AMPI had undergone a change in management and had tax and antitrust problems with the administration, he preferred not to take the money.<sup>84</sup>

Jacobsen and Connally each testified that Connally did not tell him to return the money to AMPI.<sup>85</sup> In fact, there is evidence that Jacobsen did not keep the money in his box as he testified, but that instead Jacobsen disposed of some or all of the money.

### *c. Other evidence*

Jacobsen says that the \$10,000 in small bills remained in his safe deposit box untouched from May 1971 until late 1973 when the FBI took an inventory of it and that he did not give the money to Connally, use it himself, or know of any other use of the money in the interim.<sup>86</sup> To the contrary, the committee has proof that some money in Jacobsen's box on November 27, 1973, could not have been placed there until well after 1971 and in one instance until March 1973—nearly 2 years after Jacobsen swears he put the money in the box.

On November 27, 1973, with Jacobsen's consent, the FBI took an inventory of \$10,000 in one of Jacobsen's safe deposit boxes.<sup>87</sup> The inventory revealed a total of 4 \$100 bills, 91 \$50 bills and 250 \$20 bills.<sup>88</sup> All of the \$100 bills were printed and distributed to commercial banks in the 1960's or before. However, an analysis of the records of the Bureau of Engraving and of the Federal Reserve System indicates that at least 34 of the 91 \$50 bills were either not printed or issued to a commercial bank for public use until after May 1971 when, according to Jacobsen's sworn testimony, he put the bills in his box. In fact, at least 16 of the bills were not put into commercial circulation until 1972, and at least 1 bill not until 1973.<sup>89</sup> One \$50 bill was not even yet in the possession of a commercial bank as of March 28, 1973—roughly 8 months before the inventory was taken.<sup>90</sup>

<sup>82</sup> Connally, 14 *Hearings* 6069.

<sup>83</sup> *Ibid.*

<sup>84</sup> Connally, 14 *Hearings* 6071. In January 1972, George Mehren replaced Harold Nelson as general manager of AMPI. In 1971 and 1972, the IRS and the Justice Department were engaged in investigations of AMPI and on February 1, 1972, a civil antitrust suit was filed by the Department. There is evidence that Connally, while still Treasury Secretary, was consulted by AMPI on both these matters and assisted them in seeking a favorable resolution of both matters, although Connally denies doing anything more than passing on their complaints to Mitchell, then CRP Chairman. See Section VI., *infra*.

<sup>85</sup> See Connally, 14 *Hearings* 6071; Jacobsen, 15 *Hearings* 6425.

<sup>86</sup> See Jacobsen, 15 *Hearings* 6426-27.

<sup>87</sup> See Jacobsen, 15 *Hearings* 6426 and Jacobsen Exhibit 18, 15 *Hearings* 6488-94.

<sup>88</sup> This totals \$9,950; Jacobsen's attorney informed the committee that Jacobsen told him that the full \$10,000 was counted and that there was apparently one \$50 bill accidentally omitted from the FBI list. Jacobsen, 15 *Hearings* 6426.

<sup>89</sup> See Elmore Affidavit, 17 *Hearings* 7891.

<sup>90</sup> Since Federal Reserve Bank records for \$20 bills are less comprehensive than for \$50's and \$100's, the committee did not determine the distribution dates for the \$20 bills in the inventory.

On February 21, 1974, Jacobsen was indicted by a District of Columbia Federal grand jury for perjury in testifying before the grand jury that he did not touch the \$10,000 in his box between May 1971 and November 1973.<sup>91</sup> The indictment was dismissed by the Chief Judge, George L. Hart of the Federal District Court of the District of Columbia on May 3, 1974.<sup>92</sup>

Since the original \$10,000 was received in cash and used sometime in the past 3 years, it has not been possible to determine its disposition with any certainty. Jacobsen maintained two safe deposit boxes at the bank. The bank entry records for box number 998, in which \$10,000 was found in November 1973, shows no entries into the box by Jacobsen in May 1971—the month he put the money in the box according to his testimony—and only one, on May 19, by his secretary.<sup>93</sup> However, entry records for the other box, number 865, show an entry by Jacobsen on May 4, 1971, at 4:50 p.m.—the day he received the cash from Lilly.

Although the first time Jacobsen and Connally met after Jacobsen received the money was May 14,<sup>94</sup> Connally and Jacobsen each testified that they did not discuss the matter of the cash until June or July, and Connally's logs show no private meeting between them until June 28, almost 2 months after the payment from Lilly.

## 2. \$5,000 FOR CONNALLY

Lilly testified that in late 1971 he made another payment to Jacobsen who said it was for Connally's use, and there is independent evidence to corroborate Lilly's testimony. Jacobsen denied requesting or receiving any additional money and Connally denies any knowledge of the matter.

Lilly says that on October 13, 1971, he received a message that Jacobsen had called, and, when he returned the call, Jacobsen told him that he was going to Washington soon and wanted to tell Connally that he would have another \$5,000 for him in "Jake's safety deposit box at the Citizens National Bank in Austin in a short time." Lilly says he told Jacobsen, "OK, he could tell Mr. Connally that."<sup>95</sup>

Lilly obtained the money directly from Russell in the form of a check dated November 3 for \$5,000 payable to cash.<sup>96</sup> Lilly says that on the morning of November 10, 1971, he flew from San Antonio to Austin with the Russell check. When he arrived at the Austin airport,

<sup>91</sup> Jacobsen was indicted for one count of lying under oath for the following testimony.

Q. And it is your testimony that that \$10,000 was the \$10,000 which you put into that box within a number of weeks after it was given to you by Mr. Lilly and it was untouched by you between then and the time you looked at it with the FBI agent?

A. That is correct.

Q. You are certain about that?

A. Yes, sir.

<sup>92</sup> Judge Hart ruled that since Jacobsen was asked whether that was his prior testimony and not whether that testimony was true, Jacobsen's answer was literally true and, under a Supreme Court precedent, not perjurious. On July 29, 1974, subsequent to the preparation of this report, a Federal grand jury in Washington, D.C., handed down an indictment charging Jacobsen with a violation of Federal law, title 18, United States Code, section 201(f), prohibiting the giving of a gratuity (a total of \$10,000) to a Federal official, Treasury Secretary Connally. Connally was charged with two counts of violating Federal law, title 18, United States Code, section 201(g), by accepting the \$10,000, two counts of perjury, in violation of title 18, United States Code, section 1623, and one count of conspiracy to obstruct the grand jury and Select Committee investigations, in violation of title 18, United States Code, section 371.

<sup>93</sup> See Bethke Affidavit, 17 *Hearings* 7835.

<sup>94</sup> Connally's logs, subpoenaed by the Committee, also reveal that on both May 7 and May 8, Jacobsen called and spoke to Connally by telephone.

<sup>95</sup> Lilly, 14 *Hearings* 5962-63.

<sup>96</sup> See Lilly, 14 *Hearings* 5963-64; Lilly Exhibit 23, 14 *Hearings* 6042.

he met by accident Parr, Jacobsen, Joseph Long, Jacobsen's law partner, and Tom Townsend, another AMPI employee. Lilly then went to the Citizens National Bank, cashed the check and delivered the cash to Jacobsen in Long's presence, at their law offices. Lilly says that Jacobsen left at about 11:45 a.m. to go to the bank and put the money in his safe deposit box.<sup>97</sup>

Jacobsen and Long deny any knowledge of the request or delivery of the money; similarly, Connally states that he never discussed the \$5,000 with Jacobsen.<sup>98</sup> However, since November 14, 1973, when Lilly testified before the Select Committee concerning these events, the committee has obtained several pieces of relevant evidence unknown and unavailable to Lilly at the time of his testimony. First, according to his logs, Connally met with Jacobsen on October 14, 1971—the day after Jacobsen allegedly told Lilly that he was going to Washington soon and wanted to tell Connally about another payment. Neither Jacobsen nor Connally gave any inkling as to why Jacobsen would have any other reason to discuss with Lilly his plan to see Connally other than in connection with Jacobsen's request for more money, purportedly for Connally.

Second, with respect to the chance meeting between Lilly and Jacobsen, Long, Parr and Townsend, on November 10, Townsend testified that sometime in 1971 he was on his way with Parr from Little Rock to San Antonio, and they stopped in Austin to see Jacobsen. While they were in the airport with Jacobsen and Long, he says Lilly accidentally met them, exactly as Lilly had testified, and Parr corroborates this.<sup>99</sup> Third, the \$5,000 Russell check was, according to the stamp on its reverse side, negotiated at Citizens National Bank in Austin on November 10, 1971. Fourth, Jacobsen made an entry into one of his two safe deposit boxes at 12:30 p.m. on November 10, 1971<sup>1</sup>—45 minutes after the time Lilly testified that Jacobsen left to put the money in his box.

The committee attempted to recall Jacobsen but his attorney informed the staff that Jacobsen would not testify as to matters relating to his receipt and use of AMPI cash for Connally but would, if called, plead the fifth amendment. On May 22, 1974, the committee voted to apply to the court for an order compelling Jacobsen to testify and granting him use immunity for that testimony, and the court ruled it would issue the order on June 21, 1974. However, at the request of the office of the Special Prosecutor, which informed the committee that it was conducting an ongoing investigation of matters involving Jacobsen, the committee on June 19 voted to withdraw its application, and the court granted the committee's motion to withdraw its application on June 20, 1974.

<sup>97</sup> Lilly, 14 *Hearings* 5963.

<sup>98</sup> See Connally, 14 *Hearings* 6073; Jacobsen, 15 *Hearings* 6428–30; Long Affidavit, 17 *Hearings* 7969–73.

<sup>99</sup> Townsend, 16 *Hearings* 7092, 7103. This airport meeting is discussed elsewhere in the Report. See Chapter 7. Lilly testified that, in his presence in the airport, Jacobsen gave an envelope to Parr, saying "Here is the \$5,000 for Wilbur Mills." Lilly, 14 *Hearings* 5963. Although they could not specify a time, both Jacobsen and Parr admit that Jacobsen gave Parr \$5,000 at the Austin airport for Mills' Presidential campaign sometime in 1971 or 1972, and Parr says that Lilly was present on some other mission. See Jacobsen, 15 *Hearings* 6430–32; Parr, 15 *Hearings* 6776–77, 6791, 6899. Moreover, although he cannot recall if this was the time of the Austin airport meeting, Townsend's calendar shows that he went to San Antonio on November 10, 1971. See Townsend, 16 *Hearings* 7102. The \$5,000 for Parr may have been generated by two checks from Jacobsen and Long, dated and cashed on November 10, 1971, totaling \$5,000. See Parker Affidavit, 17 *Hearings* 7990–91.

<sup>1</sup> See Bethke Affidavit, *supra*.

B. MILK PRODUCERS' CONTRIBUTIONS TO THE PRESIDENT'S  
CAMPAIGN—THE 1971 AMPI CONVENTION

During the balance of 1971 after the price support decision in March, the three dairy trusts contributed another \$287,500 to Presidential and other Republican committees—\$232,500 to the first 93 Nixon committees; the \$50,000 to other Republican committees and committed on March 24; and as discussed in the following section, \$5,000 for the President's campaign that was used to pay for the Ellsberg break-in. This was in addition to the earlier \$10,000 and \$25,000 contributions to Republican committees on March 22 and 24. There is no suggestion or evidence that anyone connected with the RNC was aware of the reason for the contributions.

1. \$50,000 FROM ADEPT AND \$10,000 FROM SPACE

Within 1 week after the meeting at the Louisville Airport on the night of March 23–24, steps were taken by TAPE to loan \$50,000 to ADEPT which then contributed the \$50,000 as part of a commitment made by Hanman for ADEPT on March 24.<sup>2</sup>

On March 30, 1971, W. DeVier Pierson, one of AMPI's attorneys who advised TAPE, wrote a letter to Robert O. Isham, the trustee for TAPE, giving his opinion that TAPE could legally make the loan and was not required to report it.<sup>3</sup> That same day, Marion Harrison sent nine committee names—the same committees to which SPACE and TAPE had contributed \$35,000 the previous week—to Hanman of Mid-Am and stated that he would be sending a 10th name later when it was available.<sup>4</sup>

Upon receipt of the committee names, William Delano of ADEPT drew nine checks, each for \$5,000. He dated them April 5, but they were not sent until later in the month, after the loan from TAPE to ADEPT was made. On April 16, Isham sent to Delano a \$50,000 TAPE check together with a note to cover the ADEPT loan, and on April 19, Delano signed the note and returned it to Isham. That same day, Hanman mailed the first \$45,000 to Harrison.<sup>5</sup> The 10th committee name was not sent to Hanman by Harrison until the fall of 1971 when, on November 9, 1971, ADEPT contributed \$5,000 to that committee (Salute to the President Dinner Committee).<sup>6</sup>

The \$50,000 contribution was made to fulfill a commitment made on March 24, 1971<sup>7</sup>—as a result of discussions between the milk producer leaders at the Louisville Airport meeting.<sup>8</sup> As noted above, Hanman understood that at least part of the ADEPT contributions would go for the President's reelection campaign.<sup>9</sup> However, there is no evidence that any portion of these moneys were transferred to any Presidential committee.

<sup>2</sup> See Hanman, 17 *Hearings* 7741–42, 7744.

<sup>3</sup> See Nelson Exhibit 9, 15 *Hearings* 6716.

<sup>4</sup> See Hanman Exhibit 1, 14 *Hearings* 5901.

<sup>5</sup> See Isham Deposition and Exhibit D, *Nader v. Butz* (November 29, 1972).

<sup>6</sup> See Keema affidavit, *supra*.

<sup>7</sup> Hanman, 17 *Hearings* 7741, 7744. In Hanman's April 19 letter to Harrison, he said: "As I mentioned on the phone, we need the name of one more committee to finish our commitment." See Hanman letter, 17 *Hearings* 8150.

<sup>8</sup> See Nelson, 15 *Hearings* 6640. As discussed above, the AMPI people present at the airport meeting had told Alagia they needed the loan to ADEPT by March 29. See Section IV.F.10, *supra*.

<sup>9</sup> Hanman, 14 *Hearings* 5884–85.



## 2. PUBLIC DISCLOSURE OF \$232,500 TO NUMEROUS NIXON COMMITTEES

*a. The Contributions*

The late-night meeting on March 24 attended by Chotiner, Nelson, and Kalmbach was followed not only by the price support announcement but also shortly thereafter by 100 committee names being sent to the milk producers for a \$250,000 contribution to the President's campaign. By April 1, 1971 (the effective date of the new price support level), Nelson had received from Marion Harrison a list of the committee names.<sup>10</sup> Although Nelson testified that it was his understanding and intent that all three dairy trusts would contribute to those committees,<sup>11</sup> he acknowledged that TAPE, the largest and most active, was to contribute the major share.<sup>12</sup> Accordingly, on April 26 and May 3, 75 TAPE checks each for \$2,500 were drawn to 75 of the committees on the list.<sup>13</sup> However, these checks were never delivered and later were voided, and the contributions were not completed until July 1971 and thereafter.

The delay in consummating the contributions was attributable not to the milk producers who, following the favorable price-support decision, were apparently anxious to honor their commitments, but to those responsible for the work of organizing the committees, which included drafting a charter, selecting a chairman and treasurer, and opening a bank account. As discussed in section IV.E, Robert Bennett had been given that primary responsibility by Colson and Kalmbach. Bennett says that he received a copy of the charter form for the committees from Thomas Evans, who in turn had received it from John Dean in March 1971.<sup>14</sup> When Lee Nunn (the former director of the Senatorial Campaign Committee) joined the staff of the Citizens Committee for the Re-Election of the President in April 1971, the committees were not yet formed, and Nunn says that one of his first assignments was to help Bennett organize the committees.<sup>15</sup>

In his discussions with Kalmbach and with Hugh Sloan, who was treasurer of the Citizens Committee (and later of FCRP), Nunn learned that several hundred committees would be needed ultimately for milk producer contributions but that 100 committees were needed immediately.<sup>16</sup> However, the process of forming the committees proceeded slowly even after Nunn and Sloan began helping Bennett.

White House aides discussed the expected milk producer contributions and expressed concern over the delay in the formation of committees. Since the contributions were expected to be substantial—\$2 million—and to be made in regular monthly installments of \$90,000 beginning April 1, 1971,<sup>17</sup> Haldeman considered them a "good funding base for the setting up of the [Citizens Committee]" which had been organized in March 1971, just a few weeks earlier.<sup>18</sup> In fact, on May 18, Haldeman and Dean met and decided that "[t]he milk money can pay

<sup>10</sup> See Nelson Exhibit 11, 15 *Hearings* 6718–22.

<sup>11</sup> Nelson, 15 *Hearings* 6641–42.

<sup>12</sup> Nelson, 15 *Hearings* 6631.

<sup>13</sup> See Lilly exhibit 27, 14 *Hearings* 6050; and Wright report, p. 73. Lilly first provided to the Select Committee in November, 1973, copies of TAPE check stubs for 13 voided checks. Later, records of the remaining 62 checks were discovered.

<sup>14</sup> See charter attached to Dean memorandum, 17 *Hearings* 8131–34.

<sup>15</sup> Nunn, 17 *Hearings* 7541; Sloan interview, October 13, 1973.

<sup>16</sup> Nunn, 17 *Hearings* 7541–42.

<sup>17</sup> See Strachan, exhibit 4, 16 *Hearings* 7483, and discussion in Section IV.H.4, *supra*.

<sup>18</sup> Haldeman, 16 *Hearings* 7170; see 2 *Hearings* 532–33.

for the 1701 activities up to the campaign.”<sup>19</sup> However, based upon the recommendation of Kalmbach, Nunn, and Strachan, Haldeman decided several days thereafter not to use the “milk money” to pay for campaign expenses, because both Kalmbach and Nunn were afraid of the “risk of discovery.”<sup>20</sup> But Strachan says that, even after he made the decision, Haldeman was still anxious to receive the “milk money.”<sup>21</sup>

Despite Haldeman’s reported concern with the expected dairy contributions, he stated:

Mr. SANDERS. And the gist of your testimony, then, is that the milk producers had a desire to contribute to the reelection of the President, and had made known the specific level of contribution, but that this was totally unrelated to any favorable action taken by the Government or to be taken by the Government.

Mr. HALDEMAN. That is my specific understanding of what the basis of their intent to contribute was, that it was not to be considered to be related to any action or any desired action or any completed action by the Government.

Mr. SANDERS. That is all I have.

Mr. DORSEN. In that connection, Mr. Haldeman, you mentioned one occasion when you believed the subject was raised as to whether there might be a *quid pro quo* for the contributions, and I believe you said it was made clear to you that the dairy industry expected no *quid pro quo*.

Mr. HALDEMAN. I don’t think I said—my recollection is not that the question was raised of whether there was a *quid pro quo*, but rather that the positive was raised. The point was made that it was to be understood that there was no *quid pro quo*, there was no commitment contingency.

Mr. DORSEN. Did this come up once or more than once?

Mr. HALDEMAN. I think probably more than once.<sup>22</sup>

Although the 75 \$2,500 checks from TAPE discussed above had been drawn and, according to a memo from Strachan to Haldeman, transferred as of May 21 to the Nixon committees being formed by Bennett,<sup>23</sup> another 2 to 3 months passed before the committees were in proper form, apparently necessitating the voiding of those checks and rewriting of them later. Accordingly, the process of sending Nixon committee names to the milk producers began all over again in June. On June 16, Harrison sent a letter to Nelson with the names of 25 of the 100 committees and the name and address of each chairman and treasurer. As noted above, Harrison’s letter expressed his apparent frustration over the process: “Sometimes it is difficult to honor a commitment.”<sup>24</sup> Two weeks later, on June 29, Harrison sent to Nelson

<sup>19</sup> Exhibit 34-26, 3 *Hearings* 1230. It was estimated at the meeting that those expenses would run approximately \$35,000 to \$40,000 per month, or slightly less than one-half of the milk producers’ monthly commitment. However, Sloan says that the monthly expenses were at first approximately \$50,000 to \$100,000 and, by the fall of 1971, \$200,000 to \$300,000 per month. Sloan interview, *supra*.

<sup>20</sup> See Strachan, exhibit 3, 16 *Hearings* 7478-82.

<sup>21</sup> See Strachan, 16 *Hearings* 7429.

<sup>22</sup> Haldeman, 16 *Hearings* 7184. As noted in section III.B. above, Haldeman noted:

[O]bviously an offer of a \$2 million contribution is a matter of interest. . . . And the question, if not spoken, automatically arises as to why. Haldeman, 16 *Hearings* 7167.

<sup>23</sup> Strachan Exhibit 3, 16 *Hearings* 7478-82.

<sup>24</sup> Harrison Exhibit 3, 14 *Hearings* 6287.

information on more committees.<sup>25</sup> Since, as Harrison pointed out, these additional committee names were all included in the original list Nelson had received in April, Harrison urged Nelson to make the contributions immediately: "[I]t might be good politics to move fast."<sup>26</sup>

Harrison may have been concerned that, through no fault of their own, the milk producers had not been meeting their commitment, a fact of which, as discussed below, the White House did take notice.<sup>27</sup> In any event, Nelson did "move fast." On July 9, Isham sent 50 TAPE checks to Harrison in the amount of \$2,500 each for a total of \$125,000 and made payable to the 50 committee names sent by Harrison. Harrison gave the checks to the Citizens Committee and they were deposited in the accounts of the 50 respective committees in August.

The second round of contributions to the remainder of the 100 committees—this time by all three trusts—was made in August and September 1971. Harrison testified that when he sent the names of the committees to Nelson, he sent copies to the other two co-ops, Mid-Am and DI.<sup>28</sup> When the expected contributions were not immediately received, Harrison enlisted the assistance of his colleague, Murray Chotiner.<sup>29</sup>

Chotiner says that before Harrison left in early August for a trip to Europe, Harrison told him that the money was not coming in as planned.<sup>30</sup> Chotiner confirmed this with the Citizens Committee (presumably Nunn) and then called Parr who told him that the milk producers didn't have the necessary committee names. On August 5, 1971, Chotiner sent to Parr and Isham a list of names of 100 committees which had finally been organized, including the 50 to which TAPE had already contributed.<sup>31</sup>

Immediately thereafter, Parr distributed the 49<sup>32</sup> remaining names to the three trusts: 25 to Isham, 12 to Gary Hanman of Mid-Am and 12 to DI.<sup>33</sup> On August 19 and 20, both SPACE and ADEPT sent their checks to Chotiner: SPACE contributed \$30,000 to the 12 committees assigned to it but ADEPT contributed to only 6 committees for a total of \$15,000.<sup>34</sup> In a letter to Parr on the same day, Hanman explained that: "[o]ur balance in the fund was insufficient to handle all 12 committees."<sup>35</sup> The following month, on September 10, TAPE contributed its \$62,500 to the remaining 25 committees.<sup>36</sup>

Of the \$232,500, TAPE contributed \$187,500 to 75 committees (to complete its portion of the contribution it had undertaken in April), ADEPT \$15,000 to 6 committees and SPACE \$30,000 to 12.

<sup>25</sup> Nelson Exhibit 12, 16 *Hearings* 6723-29.

<sup>26</sup> *Ibid.*

<sup>27</sup> See Strachan Exhibit 4, 16 *Hearings* 7483.

<sup>28</sup> Harrison, 14 *Hearings* 6473.

<sup>29</sup> Both Chotiner and Harrison have said that Chotiner was not involved in the mechanics of the contributions until that time. See Harrison, 14 *Hearings* 6273; Weitz Affidavit, Exhibit B, 17 *Hearings* 8009-10. However, Chotiner was certainly instrumental in the meeting on the night of March 24 leading to the contributions, and, according to the May 21 memo from Strachan to Haldeman, Chotiner communicated with Nunn about the progress on organizing the committees and transferring those first 75 checks to the committees. See Strachan Exhibit 3, 16 *Hearings* 7478-82, and discussion *supra*.

<sup>30</sup> See Weitz Affidavit, Exhibit B, *supra*.

<sup>31</sup> See Parr Exhibit 9, 15 *Hearings* 6930.

<sup>32</sup> Only 99 of the 100 committees were to be used. The 100th was chaired by E. Howard Hunt, and Bennett says it was decided that, in view of Hunt's work at that time on the White House "Plumbers" unit, it would have been inappropriate and too risky to link him publicly to the multiple committees and the President's campaign.

<sup>33</sup> See Parr Exhibit 10, 15 *Hearings* 6931 and Townsend Exhibit 6, 14 *Hearings* 6372. The Committee subpoenaed the relevant records of AMPI, TAPE, DI and SPACE but was not provided with any written record of how or when the 12 committee names were sent to DI.

<sup>34</sup> Keema Affidavit, *supra*.

<sup>35</sup> Townsend Exhibit 6, 14 *Hearings* 6372.

<sup>36</sup> See Keema Affidavit *supra*.

*b. Rose Mary Woods' List*

The \$232,500 contribution by the milk producers to the 100 secret Presidential committees was important enough to merit separate attention by the President's personal secretary, Rose Mary Woods, by being placed in a separate category in a campaign report to her. In the list of large contributions to the President's campaign prior to April 7, 1972, and kept by Woods, there is a separate page with the following information:<sup>37</sup>

HOUSE ACCOUNT

M.P.----- \$232,500  
 Milk Producers Association  
 T.A.P.E.  
 P.O. Box 32287  
 San Antonio, Texas 78216.  
  
 A.D.E.P.T.  
 Springfield, Missouri.  
  
 S.P.A.C.E.  
 Kentucky Trust  
 508 Portland Building  
 Louisville, Kentucky 40202.

Hugh Sloan, FCRP treasurer, says he prepared several lists of large pre-April 7 contributors for use in soliciting moneys for the campaign after April 7, and that he gave one copy to Stans, chairman of FCRP.<sup>38</sup> Although Rose Mary Woods, in an executive session before the Select Committee, said that she could not even identify a copy of the list shown to her,<sup>39</sup> she did testify that she received such a list in the latter part of June, 1972.<sup>40</sup> Neither she nor Sloan nor anyone else connected with the fund-raising effort interviewed by the committee could explain what was meant by the "House Account" for the milk money.

Despite her custody of the list of contributors which, according to Sloan, was used for fundraising for the duration of the campaign. Woods denied ever having had "anything to do with raising of political campaign funds," and claimed that she kept the list only for invitations to White House dinners.<sup>41</sup> However, Sloan says that a list of contributors for White House invitations was put together in 1973 when the campaign was over—not in mid-1972 when Woods says she received the list.<sup>42</sup> In fact, a question is raised as to whether her custody of a list of large contributors—and the amount of their contributions—even for the purpose of extending White House dinner invitations to such persons because of their large contributions was inconsistent with the President's announced policy of not being informed of contributions to his campaign until after the election.<sup>43</sup>

<sup>37</sup> See Woods exhibit 2, p. 121. reprinted at 17 *Hearings* 8168.

<sup>38</sup> Sloan interview, December 1, 1973.

<sup>39</sup> The list had been furnished to the committee by the White House.

<sup>40</sup> Woods, 22 *Hearings* 10233.

<sup>41</sup> Woods, 22 *Hearings* 10209.

<sup>42</sup> Sloan interview, December 1, 1973.

<sup>43</sup> See section III, *supra*.

*c. Public Disclosure*

White House aides were concerned about disclosure of a link between the milk producers contributions and the President's campaign,<sup>44</sup> and they took certain precautions to minimize the possibility of such disclosure. Ultimately their efforts proved unavailing.

Since District of Columbia political committees were not required to report their expenditures (including any transfers to the President's campaign), the Bennett committees were organized in the District of Columbia to receive the dairy contributions. As previously noted, the dairy trusts reported to the Clerk of the House, but the ultimate beneficiary, the President's campaign effort, was not disclosed in the trusts' reports.

Furthermore, the committees were made to appear as anonymous as possible. For treasurers of the committees, Bennett enlisted employees of the two banks in Washington used for the 100 committee accounts, and the bank addresses were designated as the official addresses for the committees to be included in reports to the Clerk of the House.<sup>45</sup> The names of the committees did not include the President's name<sup>46</sup> and were drawn in such a way so as not to be linked to the President, such as "Americans United for Honesty in Government."

Despite all their efforts, the link between the milk contributions and the President's campaign was uncovered. Apparently because the milk producers erroneously reported the address of the chairmen of several committees, rather than the bank addresses given for the treasurers,<sup>47</sup> some of the chairmen were contacted by investigators and it became known that the committees were established by Bennett for the President's campaign. In addition, two persons (who had originally been included as chairmen and then replaced by Bennett) were inadvertently included in the lists sent to the milk producers and subsequently included in their public reports; these individuals then informed the Clerk of the House that they knew nothing of the committees that had been reported as receiving the contributions.<sup>48</sup>

The milk producer reports were corrected, but the publicity linking the President and the milk producers had begun, and White House officials and fundraisers were quite upset. Internal White House memorandums in September 1971, indicate that Haldeman, Dean, Colson, Kalmbach, Nunn, Strachan, Bennett, Evans, and Robert Odell (executive director of the Republican National Finance Committee) met and discussed the investigations and stories by several newsmen on the milk money situation.<sup>49</sup> According to one memo, Bennett advised Nunn that: "No damaging information has been released."<sup>50</sup>

But the damage had been done. Newspaper articles appeared which suggested that a *quid pro quo* may have taken place for the President's milk price-support decision, and all parties to the transaction—the

<sup>44</sup> See Strachan exhibit 3, 16 *Hearings* 7478-82.

<sup>45</sup> See Nunn, 17 *Hearings* 7542.

<sup>46</sup> In fact, Nelson requested an opinion letter from Harrison before making any contributions and Harrison complied on July 8 (the day before TAPE contributed \$125,000) saying that the committees were *bona fide* and were to support the reelection solely of the President. See Nelson, 15 *Hearings* 6645 and Nelson exhibit 13, 15 *Hearings* 6730-41.

<sup>47</sup> Bennett interview, *supra*.

<sup>48</sup> See Nelson, 15 *Hearings* 6627, 6646-47.

<sup>49</sup> Strachan Exhibits 4 and 7, 16 *Hearings* 7483, 7485-88.

<sup>50</sup> Strachan Exhibit 4, 16 *Hearings* 7483.

milk producers, the White House, and Bennett and his chairmen—were embarrassed. Sloan says that, accordingly, some time in the fall of 1971, Harrison put a hold on additional contributions by the milk producers.<sup>51</sup> Later, in late 1971 and early 1972, after the September contributions from TAPE were reported, more adverse publicity arose and, as a result, Bennett had the committees closed and the funds transferred to FCRP, and the milk producers began looking for other less embarrassing ways to meet their commitments to the President's campaign.<sup>52</sup> Their efforts in that connection, including meetings in 1972 with Kalmbach, Connally, and others, is discussed in section VI.

### 3. 1971 AMPI CONVENTION AND THE PRESIDENT

After most of that \$232,500 had been contributed by the milk producers and just prior to the September 10 contribution of \$62,500, the President attended and addressed AMPI's annual convention in Chicago on September 3, 1971—fulfilling one of AMPI's three objectives described to Kalmbach 2 years earlier.<sup>53</sup> After Nelson and Parr personally escorted the President to the podium,<sup>54</sup> the President spoke for 35 minutes<sup>55</sup> to a crowd of approximately 40,000 during which he warmly congratulated the dairymen:

You have pioneered in developing a total marketing concept which, I think, many other producers would do well to consider. And all of this you have done on your own, neither whimpering helplessly about uncontrollable economic forces nor waiting passively for Government to bail you out.<sup>56</sup>

Almost simultaneously with the President's address, two other events were taking place—the White House plumbers were breaking into the offices of Daniel Ellsberg's psychiatrist in California, and the milk producers were delivering to Harrison at the convention another \$5,000 contribution for the President's campaign which was used to pay for the break-in operation, as discussed in the following section.

### 4. FUNDING THE ELLSBERG BREAK-IN

A \$5,000 contribution from the milk producers to the President's campaign was solicited and then diverted by Colson to pay for the Ellsberg break-in. Those involved in the transaction included Nelson, Chotiner, and Harrison representing the milk producers, George Webster, a Washington attorney, and Joseph Baroody, a Washington public relations consultant. Each denies that he knew of the disposition of that contribution.

#### *a. Joseph Baroody and AMPI*

Joseph Baroody is a partner in a Washington public relations firm of Wagner & Baroody, which was retained (at Colson's insistence) by AMPI and paid \$40,000 apparently without providing any services whatsoever—at least not to AMPI.

<sup>51</sup> Sloan interview, October 31, 1973.

<sup>52</sup> Bennett interview, *supra*. See Jacobsen, 15 *Hearings* 6437–38.

<sup>53</sup> See Section II, *supra*.

<sup>54</sup> Van Dyk, 16 *Hearings* 6989, 7026.

<sup>55</sup> Dairymen Digest, p. 9, October, 1971.

<sup>56</sup> Public Papers of the President: Richard Nixon (1971), p. 931.

Testifying on December 19, 1973, before the Select Committee, Nelson says that in late 1970 or in January, 1971 (when Nelson was meeting with Colson from time to time and discussing the \$2 million pledge as well as AMPI's requests), Colson recommended to Harrison that AMPI hire Wagner & Baroody for public relations work for \$25,000; since Nelson did not see any need for their services, he refused.<sup>57</sup> Colson then repeated his request to Harrison and urged that AMPI hire the firm.<sup>58</sup> Nelson testified that, this time, he complied:

Mr. NELSON. And we decided that we had better do it.

Mr. WEITZ. Why?

Mr. NELSON. Well, because it had been suggested by Mr. Colson was the only reason.

Mr. WEITZ. Did you feel that if you did not hire the firm at Mr. Colson's repeated request that you somehow might lose some favor or it might impede your efforts with Mr. Colson?

Mr. NELSON. Yes.<sup>59</sup>

AMPI's records show that Wagner & Baroody was paid \$2,500 a month from October 1970 through January 1972 (until the change in AMPI management) for a total of \$40,000. Nevertheless, Nelson says that the Baroody firm not only failed to perform any services for AMPI but even failed to meet with anyone from AMPI.<sup>60</sup> Nelson called the \$40,000—paid from corporate funds—a "contribution".<sup>61</sup> Although Baroody says that his firm "was expected to look for ways in which we could advance the interests of AMPI," he cites no work performed for the co-op for the fees.<sup>62</sup>

A question arises as to why Colson might have insisted on AMPI hiring the Baroody firm, and what use was made of the \$40,000. As discussed above, Patrick J. Hillings, counsel to Harrison's firm, wrote to the President on December 16, 1970—at about the same time that Baroody's firm was put on retainer to AMPI—that AMPI was "funding a special project." No one interviewed by the committee—including Hillings and Harrison who composed the letter—could explain what was that "special project."<sup>63</sup>

However, Baroody has acknowledged that he received moneys from Colson on several occasions for certain projects. In 1971, Baroody received more than \$3,000 to use in preparing television responses to a Common Cause statement on ending the Vietnam war, and in the spring of 1972, he received \$22,000 from Colson to run newspaper advertisements in support of the President's Southeast Asia policies.<sup>64</sup> From August 1971 until the spring of 1972, Baroody worked with the private committee organized at Colson's direction, Citizens for

<sup>57</sup> Nelson, 15 *Hearings* 6651-52. AMPI records reflect that no bills were submitted from Wagner & Baroody until December 31, 1970, at which time bills for the last 3 months of 1970 and for January, 1971 were submitted. It is possible, therefore, that the arrangement was not made final until December with the proviso that Wagner & Baroody would obtain \$7,500 as a result of back billing.

<sup>58</sup> Nelson, 15 *Hearings* 6652.

<sup>59</sup> Nelson, 15 *Hearings* 6652-53.

<sup>60</sup> Nelson, 15 *Hearings* 6653.

<sup>61</sup> Nelson, 15 *Hearings* 6653-54.

<sup>62</sup> Baroody Affidavit, 17 *Hearings* 7817.

<sup>63</sup> See Harrison Exhibit 2, 14 *Hearings* 6285-86, and Section III.B.3.b., *supra*.

<sup>64</sup> Baroody affidavit, *supra*. Baroody says that he returned the \$22,000 when the project was suspended and, later, he was given \$6,800 to pay for a similar but scaled down project.

a New Prosperity, in support of the President's economic policies including phase 1, and phase 2.<sup>65</sup>

One White House project that was funded by AMPI was the covert entry by the White House Plumbers into the office of Daniel Ellsberg's psychiatrist, Dr. Lewis Fielding, on the night of September 3, 1971. Headed by Egil Krogh the White House Plumbers had been organized in July 1971 to investigate the source of the leaks of sensitive information highlighted by the newspaper publication of the so-called Pentagon Papers on the Vietnam war.<sup>66</sup> The activities of the Plumbers included an investigation of Daniel Ellsberg, who had been accused of leaking the papers to the press, and that investigation extended to matters such as uncovering and publicizing certain aspects of Ellsberg's background and private life including his psychiatric records.<sup>67</sup>

According to Colson, Ehrlichman called him from the west coast the week before Labor Day, 1971 and told him that Krogh needed \$5,000 quickly for one of their projects.<sup>68</sup> As recalled by Ehrlichman, he referred Krogh to Colson for the necessary funds and did not personally telephone Colson.<sup>69</sup> In any event, Colson has testified that he called Baroody, with whom he had already begun to work on the Citizens for a New Prosperity project, and asked him for a loan of \$5,000 within the next day or two.<sup>70</sup>

Baroody says he immediately obtained the \$5,000—\$1,500 to \$2,000 from personal funds and the balance from funds Colson had given to him to use in preparing television responses to a Common Cause statement on ending the war in Southeast Asia. The next day he took the money in an unmarked envelope to Colson who directed him to deliver it to another individual whom Baroody didn't know at the time but whom he now believes was Krogh.<sup>71</sup> The money was apparently given to Hunt and Liddy and went directly to pay for the expenses of the break-in.

While Colson was arranging for the delivery of the money to Krogh, he was also taking steps for its repayment to Baroody by contacting Chotiner and George Webster.

#### *b. Repayment for the Break-in*

George Webster was the director of the national lawyers for Nixon organization in the 1968 campaign.<sup>72</sup> In 1971, he organized committees at the request of Colson ostensibly to receive contributions to the President's 1972 campaign. In fact, one of the committees, People United for Good Government, was used to furnish a \$5,000 milk producer contribution to pay for the Ellsberg break-in.

Webster's involvement with Colson began in early 1971 when Colson, whom he met in 1970, asked him to form 17 political committees in the District of Columbia to receive a \$51,000 contribution (\$3,000

<sup>65</sup> Colson testified before the State grand jury investigating the Ellsberg break-in that he often provided money from outside interest groups at the request of Haldeman or Ehrlichman for special White House projects. *People v. Ehrlichman*, Cal. Sup. Ct. Cr. No. A 300 388, Grand Jury Transcript at 654-55 (testimony of Charles Colson) (hereafter *Ellsberg break-in Grand Jury Proceedings*).

<sup>66</sup> *Ellsberg Break-In Grand Jury Proceedings*, 629-38.

<sup>67</sup> See *Id.* at 647-49. On June 3, 1974, Colson pleaded guilty to one count of obstructing justice in the trial of Dr. Daniel Ellsberg.

<sup>68</sup> *Id.* at 652-53.

<sup>69</sup> Ehrlichman, 16 *Hearings* 7394-95.

<sup>70</sup> *Ellsberg break-in grand jury proceedings*, at 652, 655-56.

<sup>71</sup> Baroody Affidavit, *supra*.

<sup>72</sup> Webster interview, December 10, 1973.



per committee).<sup>73</sup> Webster secured four friends to serve as committee officers and organized the committees.<sup>74</sup> The money was subsequently transferred to another District of Columbia political committee fund,<sup>75</sup> part of which went to the President's reelection campaign.

Webster again accommodated Colson later in 1971. Webster says that in early September 1971, Colson called, asked if one of the 17 committees was still in existence to receive another contribution, and explained that he wanted to deposit some money in one of them.<sup>76</sup> Several of the 17 committee accounts were still open, and Webster gave Colson the name of one of the 4 committees of which he was chairman—People United for Good Government.

Colson, who had obtained \$5,000 from Baroody for Krogh at Ehrlichman's request, then arranged with the milk producers to repay the \$5,000 to Baroody through Webster's committee. Chotiner says that Colson contacted him and asked if his client, AMPI, would contribute another \$5,000—over and above the contributions to the 100 committees—for some "project." Chotiner says he relayed the request to Harrison who then called Colson or Henry Cashen at the White House to work out the details.<sup>77</sup>

Harrison says, "I was pleased to get the name of a committee—I thought Mr. Colson was doing us a favor—which had a prominent lawyer as a treasurer"<sup>78</sup> and he passed the request on to AMPI. A \$5,000 TAPE check was issued on September 2. Although he does not remember, Harrison says he may have received the check at the AMPI Convention<sup>79</sup> during the next day or so—when the President spoke—and he then delivered the check to Webster on or about September 7.<sup>80</sup>

The last step was to transfer the money to Baroody. Webster says that Colson called him about 10 days later and told him that he wanted the \$5,000 in cash. Webster cashed a check on the committee account for \$5,000 on September 21 and put it in his safe.<sup>81</sup> According to Baroody, he received a call from someone in Colson's office some time in September and was told to go to George Webster's office to get the cash, which he did.<sup>82</sup> Webster, who was out of town at the time, had told his secretary to follow Colson's instructions. Colson or someone in

<sup>73</sup> Webster interview, *supra*.

<sup>74</sup> Webster, who served as chairman of 4 of the 17 committees, asserted that, although he received all 17 checks from Colson, he did not organize the remaining committees. Webster interview, *supra*. However, the four other chairmen told the committee staff that Webster had prepared the necessary documents and that they did nothing more than sign the documents.

<sup>75</sup> Webster says that sometime after the checks were deposited, Colson called him and asked that checks be drawn and made payable to the Republican National Committee, and Webster says that, with respect to his four committees, he did so. However, according to the other chairmen, Webster arranged for the transfer at the time the committees were formed. These checks were not, however, received by the RNC but were instead deposited in the account of a District of Columbia political committee, the D.C. Republican Support Committee.

Webster assured the Committee staff that the checks drawn on the committee accounts were delivered promptly because "as a lawyer you don't leave things sitting around too long." (Webster interview, p. 20). Someone did, because the checks were not negotiated for 6 months. According to the bank records of the committees, the 17 checks were deposited in their respective committee accounts on Feb. 9, 1971, and the 17 checks to the RNC drawn on these accounts were dated Feb. 22, 1971, but were not negotiated until Aug. 20, 1971, when they were deposited in the account of the D.C. Republican Support Committee. Before that committee was closed in February, 1972, its funds were distributed to a number of political committees, including the Illinois FCRP.

<sup>76</sup> Webster interview, *supra*.

<sup>77</sup> See Weitz affidavit, exhibit B, 17 *Hearings*, 8010.

<sup>78</sup> Harrison, 14 *Hearings* 6263.

<sup>79</sup> *Ibid*.

<sup>80</sup> Webster interview, *supra*.

<sup>81</sup> *Ibid*.

<sup>82</sup> Baroody Affidavit, *supra*.

his office had told her to give the money to Baroody, and when he came, she did so.<sup>83</sup>

Although Webster says that he assumed that the \$5,000 was "just like the other [\$51,000] that was going to the Republican National Committee," he conceded that he did not know "where the funds went." He says that, in any event, he considered himself the trustee for Colson and felt his only obligation was to follow Colson's instructions.<sup>84</sup>

Later, Webster told Colson he didn't want to know the facts of the disposition of the money. In June or July of 1973, after Federal and State grand jury investigations of the break-in had begun, Colson and his law partner, David Shapiro, met with Webster to discuss the transaction. However, according to Webster, when Colson started to explain that the money went to repay Baroody for the money he had extended to Krogh, Webster cut him off by saying:

Chuck, you know you never told me. I assumed this money was going to the Republican National Committee at the time; and I have no knowledge about that. And whatever you did with the money, was your own business.<sup>85</sup>

*c. Haldeman and Ehrlichman Approval of the Milk Producer Repayment*

There is evidence that the payback of the expenses of the Ellsberg break-in with milk producer contributions was carried out by Colson with the knowledge and approval of Haldeman and Ehrlichman. On September 11, 1971—4 days after Harrison had delivered the \$5,000 TAPE check to Webster—Strachan reported in a memorandum entitled "Milk Money" to Haldeman that, according to Lee Nunn and Hugh Sloan, "Colson has established a separate agreement with the milk people in order to have cash available."<sup>86</sup>

The memo went on to say that "[i]f the alleged Colson agreement has your approval the matter will be dropped." On the bottom of the memo were instructions from Haldeman to Strachan to check with Colson.<sup>87</sup> Strachan testified that he raised the matter with Haldeman in the memorandum because Haldeman had been concerned about secret solicitation of contributors during the 1972 campaign by individuals in the White House without his knowledge and that Haldeman had previously sent a memorandum to Colson, Magruder, Chotiner and others instructing them to stop the practice.<sup>88</sup>

Strachan did check with Colson and, in a followup memorandum to Haldeman on September 16, also entitled "Milk money," Strachan reported:

<sup>83</sup> Webster interview, *supra*.

<sup>84</sup> See Webster interview, *supra*. Webster says he mistakenly thought that the Baroody who received the "contribution" was William Baroody, a brother of Joseph Baroody, who at that time was an official of the Department of Defense.

<sup>85</sup> Webster interview, *supra*.

<sup>86</sup> Strachan exhibit 4, 16 *Hearings* 7483.

<sup>87</sup> *Ibid.* As described above, the White House has denied to the Committee many documents relevant to the milk fund investigation. The Sept. 11, 1971, memo which referred to a \$90,000 a month commitment and \$232,500 in actual contributions from the milk producers, was not even included by the White House in the list of materials relevant to milk producer contributions; it was, however, appended to a motion by defendants in *Nader v. Butz* on Jan. 18, 1974, opposing production by the President to plaintiffs of assertedly privileged documents.

<sup>88</sup> Strachan, 16 *Hearings* 7462.

You asked me to check Colson regarding an independent agreement with the milk people for Colson to get cash. Colson confirmed that he had made a separate arrangement to obtain five thousand. This money was committed by Ehrlichman but never delivered in connection with a "project we (Colson and Ehrlichman) worked on together."<sup>89</sup>

Although Ehrlichman told the Select Committee staff that he did not commit the money for Krogh,<sup>90</sup> Haldeman testified that another of his aides, Lawrence Higby, checked independently with Ehrlichman who confirmed the accuracy of Strachan's September 16 report.<sup>91</sup> Strachan testified that Haldeman was apparently satisfied with Strachan's report and did not ask him for any further information or direct him to cancel the "separate arrangement."<sup>92</sup>

## VI. MILK PRODUCER CONTRIBUTION ACTIVITY IN 1972 PRIOR TO APRIL 7—THE JUSTICE DEPARTMENT ANTITRUST SUIT AGAINST AMPI

By the end of 1971, the milk producers had received much of the favorable treatment from the President that they had sought—low import quotas, higher price supports, meetings with the President, and the Presidential address to their convention—but they had also been the subject of a great deal of unfavorable publicity in connection with their attempts to honor their commitment for contributions. In order to make additional contributions in 1972 without that attendant publicity, they recontacted Kalmbach and tried to develop a different procedure for those contributions.

At about the same time, a Justice Department antitrust investigation of AMPI culminated in the filing of a civil suit. This action impacted upon the contribution activity of the milk producers—at first chilling their interest in making additional contributions, and, according to Kalmbach's testimony and other evidence, later, just prior to April 7, 1972, resulting in a last-ditch effort by AMPI to seek a cessation of the suit as a *quid pro quo* for more secret contributions to the President's campaign.

### A. THE JUSTICE DEPARTMENT ANTITRUST SUIT AGAINST AMPI

In the late 1960's and early 1970's, the Antitrust Division of the Justice Department received a number of complaints from independent dairy farmers against MPI and then later AMPI, alleging that the cooperative had engaged in predatory practices to squeeze smaller cooperatives out of their markets in order to monopolize those markets.<sup>93</sup> A staff investigation was initiated, which led to a recommenda-

<sup>89</sup> Strachan Exhibit 5, 16 *Hearings* 7484. This is consistent with what Strachan identified as his handwritten notes written on the Sept. 11 memo and reflecting his followup activity: "5G separately on E committed siphoned."

<sup>90</sup> Ehrlichman, 16 *Hearings* 7395.

<sup>91</sup> Haldeman, 16 *Hearings* 7175. This is corroborated by a handwritten note following Strachan's report in the Sept. 16 memo: "Right L."

<sup>92</sup> Strachan, 16 *Hearings* 7462-63.

<sup>93</sup> Interview of John E. Sarbaugh, Chief of the Chicago office of the Antitrust Division, Department of Justice, Dec. 20, 1973. The practices alleged included "loading the pool" (shipping supplies of milk into a particular area for the purpose of depressing prices paid to competitors of the shipper) and "full line forcing" (forcing milk haulers to stop hauling milk for its competitors by threatening to discontinue AMPI's use of their services).

tion for a grand jury investigation leading to possible criminal prosecution. Attorney General Mitchell rejected that recommendation and limited the Department's action to a civil suit, which was filed on February 1, 1972.

#### 1. DEPARTMENT STAFF INVESTIGATION AND RECOMMENDATIONS

On February 23, 1971, the Justice Department authorized a preliminary investigation of AMPI's activities in the Dallas, Tex. area, which soon expanded to a number of States in the central United States. Much of the original investigation was conducted by Rebecca Schneiderman, a trial attorney in the Chicago regional office of the Antitrust Division who, after a several month investigation,<sup>94</sup> concluded that AMPI's activities were sufficiently anticompetitive to necessitate a grand jury investigation of the cooperative with a view to possible criminal prosecution. John Sarbaugh, Chief of the Chicago office, concurred with Schneiderman, and on August 11, 1971, requested authority to conduct a grand jury investigation of AMPI.<sup>95</sup> The request was forwarded to the Antitrust Division in Washington, D.C., where it was reviewed and approved by a succession of officials, all of whom concurred in the recommendation of the Chicago office. These officials included Baddia J. Rashid, Director of Operations for the Antitrust Division, Gerald Connell, Chief of the Department's General Litigation Section, and Robert Hummel, Deputy Director of Operations.

After the approval, the grand jury's request was sent to the office of the Assistant Attorney General for Antitrust, Richard McLaren.<sup>96</sup> where it was reviewed by McLaren and his assistant, Walker B. Comegys. McLaren consulted with Assistant Secretary of Agriculture, Richard Lyng, to determine whether the Department of Agriculture objected to a grand jury investigation of AMPI, and Lyng indicated that the Department had no objection.<sup>97</sup> Both Comegys and McLaren then approved the request, and on September 9, 1971—1 week after the President had addressed the AMPI convention—McLaren forwarded a memorandum to Attorney General Mitchell requesting authority for a grand jury investigation.<sup>98</sup>

McLaren says he normally received a response from Mitchell on such matters within a week or two. When, by October 29, 1971 (7 weeks later), McLaren received no response but had continued to receive complaints from milk producers about AMPI's conduct, he sent Attorney General Mitchell a second memorandum requesting

<sup>94</sup> In the course of her investigation, Schneiderman conferred not only with complaining dairy farmers, but with Tom McDade, a Texas attorney who was representing Marketing Assistance Plan, Inc. (MAP) in a private antitrust suit against AMPI. In addition, she met with attorneys in the State of Illinois attorney general's office and obtained information from them relating to the activity of AMPI and other dairy cooperatives in that State.

<sup>95</sup> Wilson affidavit, exhibit 2, 17 *Hearings* 8016-18.

<sup>96</sup> Mr. McLaren is now a U.S. district judge in the U.S. district court for the Northern District of Illinois, having assumed office on Feb. 2, 1972.

<sup>97</sup> See McLaren affidavit, 17 *Hearings* 7981.

<sup>98</sup> See Wilson affidavit, exhibit 7, 17 *Hearings* 8025. Exhibit 7 is the transmittal memorandum only, and excludes, at the request of the Department of Justice, the underlying memo which discusses the internal deliberation on the merits of the case.

authority for a grand jury and emphasizing those allegations that AMPI was continuing its predatory practices.<sup>90</sup>

## 2. ATTORNEY GENERAL MITCHELL'S ACTIONS

On November 30, 1971, in a departure, according to McLaren, from Department practice, Attorney General Mitchell rejected the request for a grand jury investigation of AMPI. In a one-line memorandum, he instructed McLaren, "per our conversation I request that you go the civil route," thereby limiting the case to a civil suit only.<sup>1</sup> Although Mitchell does not remember the conversation or even turning down a request for a criminal investigation, he acknowledged that the memorandum must have reflected his decision,<sup>2</sup> and Judge McLaren has stated that he did discuss the AMPI case with the Attorney General on November 30.<sup>3</sup> Apparently, in the course of their discussion, the Attorney General expressed the opinion that the Justice Department would have difficulty obtaining a criminal conviction in light of AMPI's defense that a Federal statute applicable to farmer cooperatives, the Capper-Volstead Act, exempted its activities from the antitrust laws and that AMPI could claim they relied on advice of counsel. However, from the very start of the investigation, the Antitrust Division was cognizant of the provisions of the act and the argument that that statute exempted AMPI from the otherwise applicable provisions of the antitrust laws; based upon a long-standing Supreme Court precedent, everyone concerned had rejected that argument—except Attorney General Mitchell.<sup>4</sup>

In response to a recent staff request, McLaren stated that Mitchell's action was unusual, and that he could not recall any other specific instance in which Attorney General Mitchell turned down a recommendation from the Antitrust Division. McLaren further pointed out that, to his knowledge, Mitchell had no particular expertise in

<sup>90</sup> See Wilson affidavit, exhibit 8, 17 *Hearings* 8026; letter from Richard W. McLaren to David M. Dorsen, dated May 10, 1974, 17 *Hearings* 8051-54. According to John Sarbaugh, while the grand jury request was pending in Washington, the Chicago office received further complaints against AMPI. Sarbaugh recalls that the Chicago office encouraged the complainants to make their plea for relief to the Washington office of the Antitrust Division. Sarbaugh interview, *supra*.

<sup>1</sup> See Wilson affidavit, Exhibit 10, 17 *Hearings* 8028.

<sup>2</sup> Mitchell interview, January 14, 1974.

<sup>3</sup> In his affidavit filed in the antitrust suit as part of a response to defendant's discovery motion, Judge McLaren states:

To the best of my recollection and belief, on or about Nov. 30, 1971, Attorney General Mitchell discussed with me the requests I had made for a grand jury investigation and, after reviewing the legal and tactical questions involved, in the face of a defense that the defendants' activities were exempt from the antitrust laws, Attorney General Mitchell suggested that the Antitrust Division proceed along civil rather than criminal lines. McLaren affidavit, 17 *Hearings* 7982.

<sup>4</sup> In his memorandum to his superiors in the Department, including McLaren, requesting the grand jury investigation, Sarbaugh included a discussion of a possible defense by AMPI that its activities were exempted from the antitrust laws, based upon the Department of Agriculture's jurisdiction over milk pricing by cooperatives. See Capper-Volstead Act, § 2, 7 U.S.C. § 292. Sarbaugh acknowledged that the Secretary of Agriculture has wide powers under the Act, including the power (1) to issue a cease-and-desist order against certain monopoly practices, (2) to regulate the minimum price which is paid by milk processors and manufacturers, and (3) to establish rules governing local pricing orders. Apparently, anticipating an AMPI defense that the Capper-Volstead Act exempted its activities from the strictures of sections 1 and 2 of the Sherman Act, Sarbaugh expressed his opinion that the issue had been resolved clearly and unequivocally 30 years before by the Supreme Court in *United States v. Borden Company*, 308 U.S. 188 (1939), which held that milk marketing orders and related regulations of the Department of Agriculture did not exempt predatory non-price-fixing activities of dairy cooperatives from the Sherman Act—the alleged AMPI activity under investigation.

this area and had no information that was not available to the Antitrust Division.<sup>5</sup>

Of the various alternatives available to the Justice Department under the circumstances in the case—a criminal prosecution, simultaneous criminal and civil suits, or a civil suit, only<sup>6</sup>—the Attorney General's directive to McLaren limited the Department to the minimum action which the Government will pursue when the evidence indicates an antitrust violation. In interviews with Select Committee staff, some of the staff attorneys in the Chicago office who had concurred in the appropriateness and need for a grand jury investigation stated that they were disappointed and surprised at the Attorney General's decision.

Aside from other considerations, the decision to pursue the AMPI case as a civil suit had an impact on the subsequent investigation in the case. Normally, investigation of a civil suit is conducted by Civil Investigative Demand (CID)—a cumbersome procedure which moves very slowly if the person or organization under investigation resists the demand for information and documents. A grand jury, on the other hand, has more extensive compulsory procedures, including the ability to subpoena testimony and documents relevant to the case from the party under investigation or from third parties. Recognizing the limitations of the CID and the apparent urgency of the complainants—and perhaps in expectation of resistance by AMPI—McLaren directed the staff to obtain by interviews any further evidence needed to prepare a civil complaint, in addition to that accumulated during the preceding 9-month investigation.

These instructions were carried out and a civil complaint against AMPI was drafted which alleged generally that the co-op had violated sections 1 and 2 of the Sherman Act. Among the specific allegations of the complaint, it was asserted that AMPI had (1) depressed the price which its competitors could receive for their milk by "loading the pool" while protecting AMPI members from economic loss; (2) agreed that processors who purchase milk from AMPI would not purchase milk from competitors of AMPI or would pay a substantially higher price for their milk than those who did not deal with AMPI's competitors; and (3) agreed that some processors would not sell or deliver milk acquired from AMPI to other processors except as directed by AMPI. The complaint also alleged that AMPI had acquired competing processors and haulers and, as part of its base-excess plan, forced its producer-members to sign membership agreements forbidding the producers from competing with AMPI for a period of 5 years after terminating membership in the co-op.

In late December 1971, the Chicago office sent a copy of the proposed complaint and a memorandum summarizing the evidence to support the suit to Washington. On January 18, 1972, following review of the case in the Antitrust Division, including the making of minor changes in the complaint, McLaren met again with Assistant Secretary Lyng and showed him a copy of the proposed complaint against AMPI. Lyng stated that he had no objection to the complaint and that he

<sup>5</sup> McLaren letter, *supra*.

<sup>6</sup> Evidence sufficient to support a criminal case will, by definition, support a civil case. Ordinarily, if the Government determines that injunctive or structural relief is necessary to stop the activity which constitutes the criminal violation, it will simultaneously seek an indictment and file a civil complaint against the defendant. See McLaren letter, *supra*. Of course, a civil suit alone may be justified if the grand jury investigation does not result in indictments.

would advise the Secretary of Agriculture of McLaren's proposed action. McLaren then forwarded the complaint and fact memorandum to the Attorney General with an accompanying note in which he stressed AMPI's "grossly predatory practices" and "strongly" urged the Attorney General to approve the suit.

On January 22, 1972, Attorney General Mitchell approved the complaint and sent it to McLaren with a note which said: "I suggest you get these people in before you file."<sup>7</sup> McLaren says that Mitchell specifically directed him at that time to give AMPI the opportunity to enter into "prefiling negotiations."<sup>8</sup>

The committee received conflicting evidence on the regularity of undertaking prefiling negotiations. Prefiling negotiations are undertaken in an attempt to have the parties agree to a consent decree which is then filed with the complaint in settlement of the case. While according to McLaren, prefiling negotiations are very common and it is "not unusual" for the Antitrust Division "to inquire of the (prospective) defendants whether they wished to prefile," in all cases,<sup>9</sup> other Antitrust Division officials told the committee staff that they viewed prefiling negotiations to be appropriate only when the defendants have agreed in principle to the terms of the relief sought by the Government in its complaint.<sup>10</sup> Although it apparently was not unusual for Mitchell to send notes to McLaren on a variety of subjects and that at the time McLaren "did not consider his written communication . . . unusual or significant,"<sup>11</sup> Mitchell's written directive to McLaren must be viewed in the light of Mitchell's participation at that time, described in VI.B., below, to raise \$1 million or more in campaign contributions from AMPI.

Nonetheless, the Division carried out Mitchell's order—until it became clear that, after all, the AMPI case was an inappropriate one for prefiling negotiations.

### 3. PREFILING NEGOTIATIONS AND THE FILING OF THE SUIT

On Monday, January 24, 1972, Sarbaugh contacted Stuart Russell, one of the counsel for AMPI, and informed him that the Chicago office had been authorized to file an antitrust complaint against AMPI and to ask AMPI if it wanted to engage in prefiling negotiations which might lead to a consent decree. Sarbaugh gave Russell until Thursday, January 27, to respond and, in keeping with Division practice, he stated that the Government would permit the negotiations to continue for a period of time not to exceed 60 days; otherwise, the complaint would be filed Friday, January 28, 1972.

In response, Russell told Sarbaugh that AMPI would probably want to negotiate, and that he would contact AMPI's Chicago coun-

<sup>7</sup> Wilson affidavit, Exhibit 13, 17 *Hearings* 8031.

<sup>8</sup> See McLaren affidavit, *supra*.

<sup>9</sup> McLaren letter, *supra*.

<sup>10</sup> Prefiling negotiations in a civil antitrust suit in which the United States is the plaintiff are distinguishable from ordinary negotiations in which both parties are likely to compromise in order to reach settlement. Prefiling negotiations are considered by the Department to be inappropriate when the defendant disputes the major allegations of the complaint. As a general rule, in 1972, the Antitrust Division allowed a 60-day period to negotiate a consent decree, but this period was not a substantive right of the defendant. If, at any time, the Government felt that the defendant was not negotiating in good faith or did not agree in principle to the relief sought, it would terminate the prefiling negotiations and file the complaint. Staff interview with Robert B. Hummel, December 4, 1973.

<sup>11</sup> See McLaren letter, *supra*. In a staff interview, Mitchell said that it was customary to have the Antitrust Division people speak to prospective defendants in a civil suit. Mitchell interview, *supra*.

sel, Martin Burns, who would most likely contact the Chicago office to see the complaint. On Tuesday, January 25, 1972, Burns read the complaint and, on January 26, he called to say that AMPI wanted to engage in prefiling negotiations.<sup>12</sup>

On January 27, 1972, at a meeting with the staff of the Chicago office, Burns and his partner Erwin Heininger confirmed AMPI's intention to engage in prefiling negotiations. However, it soon became clear that AMPI was not prepared to agree in principle to the relief requested by the Government—the threshold requirement for the negotiations to continue. For example, according to Sarbaugh, Heininger questioned the propriety of the civil antitrust complaint, and stated his belief that a number of AMPI's alleged activities were exempt under the Capper-Volstead Act.

There also seemed to be another component to AMPI's tactics in the negotiations. At that point in late January, McLaren was scheduled to leave his post for a Federal judgeship in less than a week. The 60-day prefiling negotiations, if completed, would extend well beyond the time of his departure. Sarbaugh says that, at the January 27 meeting, Heininger mentioned that with McLaren leaving the Department, the complaint would probably have to be signed by his successor before it could be filed. Heininger also referred to the fact that dairymen were big political contributors.

Sarbaugh, who had known Heininger professionally for a number of years, was shocked and concerned by the reference to political contributions. He thought that this was the most "blunt and tactless" comment he had ever heard Heininger make.<sup>13</sup> Its meaning was clear, at least to Sarbaugh and McLaren—by stalling beyond the time of McLaren's departure, AMPI might be able to use the pre-filing negotiation period to "block politically" the filing of the suit.<sup>14</sup> Although the meeting ended with the understanding that negotiations would continue, Sarbaugh made it clear to Heininger that the Government was not committed to prefiling negotiations for the full 60-day period and that the complaint would be filed if, at any time, the parties reached an impasse in the negotiations.

Sarbaugh was concerned about Heininger's attitude toward the negotiations; he felt that there had been no real agreement by Heininger that AMPI would accept the relief sought in the complaint. He was aware that dairy cooperatives had been big contributors and, in light of Heininger's comments, he brought the matter to the attention of Assistant Attorney General McLaren, who instructed him to call Heininger and tell him that the Chicago office would give him a proposed consent decree by the close of business on Friday, January 28. McLaren said that, unless AMPI consented to the basic terms of the proposed decree by the close of business on Monday, January 31, the suit would be filed the next day, February 1.

Sarbaugh relayed the message to Heininger, and told him that the AMPI case was not an appropriate case for pre-filing negotiations since AMPI had not requested the negotiations in the first place and that AMPI had not agreed in principle to the relief requested. The proposed final judgment was submitted to Heininger at 3:30 on Fri-

<sup>12</sup> McLaren affidavit, *supra*.

<sup>13</sup> Sarbaugh interview, *supra*.

<sup>14</sup> McLaren affidavit, *supra*.



day afternoon along with a letter requesting that AMPI make a written response before the close of business on Monday, January 31. On Monday afternoon, Heininger called Sarbaugh and told him that AMPI could not meet the suggested deadline of the Antitrust Division since it could not resolve all of the problems raised by the proposed judgment before the close of business that day.

The antitrust suit was filed February 1, 1972, McLaren's last day in office at the Justice Department.<sup>15</sup>

## B. WHITE HOUSE INVOLVEMENT PRIOR TO THE FILING OF THE SUIT

McLaren's original recommendation for a grand jury in the AMPI case went to Mitchell on the very same date—September 10, 1971—that the milk producers were contributing the last \$62,500 of the \$232,500 to the multiple Presidential campaign committees. During the next 2 months, while Mitchell was considering what action to take, White House aides began monitoring the antitrust investigation and there is evidence that Mitchell conferred with Haldeman about the milk producer contributions and the antitrust problem before he turned down McLaren's recommendation for a grand jury investigation. There is also evidence that in January 1972, Mitchell was taking an active role in further solicitations of the milk producers at the very time he directed McLaren to enter into pre-filing negotiations with AMPI.

### 1. MONITORING OF THE ANTITRUST INVESTIGATION BY WHITE HOUSE AIDES

Although a resolution of antitrust problems was not on the original list of milk producer objectives outlined to Kalmbach in 1969, it was a subject of some discussion between them and the White House in 1970 and 1971. Jack Gleason says he remembers meeting with Nelson and Parr, in early 1970, and discussing their concern over possible trouble from the Justice Department. Henry Cashen, one of Colson's assistants, told the committee staff that sometime in 1971 or 1972, Marion Harrison told him that the dairy people were going to get clobbered by the Antitrust Division. Cashen says that since Justice Department matters were the responsibility, in the White House, of John Dean, he may have passed on the information to Dean and, because of Colson's interest in the milk producers, to Colson, too.<sup>16</sup>

On September 24, 1971—3 weeks after the President spoke to the AMPI convention and 2 weeks after the \$62,500 contribution was made and McLaren's recommendation went to Mitchell—Colson sent a memo to Haldeman, "Eyes only," entitled "Milk Producers" with the following information on the antitrust investigation:

There is underway in the Justice Department at the moment an Antitrust Division investigation of the milk producer cooperatives. Attached is the 1956 court decision exempting the milk producers from application of the antitrust laws. If this goes too far there will be a number of very serious adverse

<sup>15</sup> See Wilson affidavit, exhibit 18, 17 *Hearings*, 8036-47.

<sup>16</sup> Cashen interview, *supra*.

consequences which I would be glad to elaborate on in detail.<sup>17</sup>

Haldeman says that he does not know what "serious adverse consequences" Colson meant and does not remember any White House concern about the antitrust investigation, despite the continued interest evidenced by the President and his staff over milk producer support for the President's reelection effort and despite the negative impact that criminal prosecution of the co-op and its leaders would be expected to have on that support. Haldeman, apparently, did want at least some further information on the matter, because on October 6, Dean sent to Haldeman aide, Gordon Strachan, "the information you requested"—a report on a possible antitrust exemption for AMPI and the "current activities within the Department of Justice" concerning AMPI.<sup>18</sup> At that point, the "current activities" included the recommendation for a grand jury investigation which was awaiting Mitchell's approval.

In his September 24 memo to Haldeman, Colson indicated that he wanted to "stay out of it,"<sup>19</sup> and he suggested that the antitrust investigation "should be taken up at one of your meetings."<sup>20</sup>

Haldeman apparently discussed the matter with Mitchell at a subsequent "political matters" meeting.

## 2. HALDEMAN-MITCHELL MEETING

There is evidence that Mitchell was deeply involved in the President's campaign long before he resigned as Attorney General, and that he regularly met with Haldeman, Presidential assistant (and later deputy campaign director for CRP) Jeb Stuart Magruder and others to pass on campaign matters. One political matter scheduled for discussion at such a meeting was the antitrust investigation of the milk producers.

On November 4, 1971—6 days after McLaren's second memorandum to Mitchell repeating his recommendation for a grand jury investigation—a "political matters meeting" was held, attended by Haldeman and Mitchell and, for a part of the meeting, Magruder and Strachan.<sup>21</sup> In preparation for the meeting, Strachan prepared an agenda of subjects to be discussed and a talking paper briefly detailing each subject; the agenda was distributed to all four attendees, but the talking paper was distributed to only Haldeman and Mitchell and not Magruder.<sup>22</sup> Item 15 of the paper indicates that the Department's antitrust investigation of the milk producers was to be discussed, as well as "milk money":

15. As you probably know, the milk producers currently enjoy an antitrust exemption resulting from a 1956 decision

<sup>17</sup> Strachan Exhibit 7, 16 *Hearings* 7485-98. The attached District Court opinion, *United States v. Maryland Cooperative Milk Producers, Inc.*, 145 F. Supp. 151 (D.C.D.C. 1956), did not hold AMPI's non-pricing predatory practices exempt from the antitrust laws. See Section V.I.A.2., *supra*. Strachan's memo was requested and then subpoenaed by the Committee but the President refused to provide it. It was subsequently made public in connection with the civil suit of *Nader v. Butz*.

<sup>18</sup> Strachan Exhibit 8, 16 *Hearings* 7499. The Select Committee has obtained a copy of the cover memo from Dean to Strachan, but the White House has refused to provide the committee with a copy of the underlying report.

<sup>19</sup> According to Kalmbach and Strachan, as discussed in Section VI.C., *infra*, Colson and Mitchell did not get along well, and Colson usually tried to avoid becoming involved in matters involving Mitchell and the Justice Department.

<sup>20</sup> Strachan Exhibit 7, 16 *Hearings* 7485.

<sup>21</sup> See Mitchell's logs located in the Committee's files.

<sup>22</sup> See Strachan exhibit 9, 16 *Hearings* 7500-01.

by the Federal District for the District of Columbia. A report here at the White House indicates the Antitrust Division at Justice is now investigating that exemption. Another report indicates that the Washington Post has assigned four reporters full-time on the milk money project. Do I understand correctly that you have directed John Dean to review any reports that have to be filed on the Hill connected with the receipt of the milk money? <sup>23</sup>

Neither Haldeman nor Mitchell remembers any discussion at that meeting of the antitrust matter.<sup>24</sup> Mitchell does not even remember knowing that the milk producers who were the subject of the investigation were the milk producers who were making campaign contributions.<sup>25</sup> There seems little doubt, however, that the subject was taken up. Strachan has testified that matters not covered in one meeting were taken up at the next,<sup>26</sup> and the White House has not disclosed any agenda or talking paper for a subsequent political matters meeting in which the matter is listed. Although Mitchell denies it, the talking paper clearly suggests that the Attorney General was informed of the connection between the milk producers under investigation and "milk money" and that Haldeman and the Attorney General discussed the investigation in the context of the campaign and milk producer contributions.

The day before his meeting with Mitchell, November 3, and again on November 29 (the day before Mitchell's rejection of the request for a grand jury), Haldeman met with Chotiner, who was counsel to the milk producers. Haldeman does not remember discussing the antitrust suit with Chotiner at either of these meetings.<sup>27</sup>

### 3. OTHER MITCHELL CONTACTS

Mitchell also met with Kalmbach several times during the September 10–November 30 period while the McLaren recommendation lay on his desk. Although he does not specifically recall speaking to him, Mitchell said in a staff interview that the only person other than Kalmbach with whom he may have discussed the antitrust suit was Chotiner.<sup>28</sup> On November 18, according to Mitchell's logs, he had a series of afternoon meetings or conversations with Kalmbach and others who were familiar with the milk producers, although there is no evidence of what was discussed in those contacts: at 2:10 he met with Dean and Kalmbach; at 3:15, Harry Dent called him, and at 4:30 Haldeman called him. It appears that Mitchell then met with the President because, according to John Connally's logs, Connally received a call at 4:58 p.m. from Mitchell in the President's office.

Twelve days later, Mitchell rejected McLaren's request for a grand jury investigation.

In early 1972, when McLaren went back to Mitchell for his approval of the civil complaint against AMPI, Mitchell was again making

<sup>23</sup> Strachan exhibit 9, 16 *Hearings* 7501. There are at least 16 other items listed in the talking paper, but the White House has excised the entire agenda and those paragraphs of the talking paper from the copy it has made available. The document was requested and then subpoenaed by the committee from the President who refused to provide it to the committee. The excised document was subsequently made public in the *Nader v. Butz* suit.

<sup>24</sup> Haldeman, 16 *Hearings* 7179; Mitchell interview, January 14, 1974.

<sup>25</sup> Mitchell interview, *supra*.

<sup>26</sup> Strachan, 6 *Hearings* 2454.

<sup>27</sup> Haldeman, 16 *Hearings* 7180.

<sup>28</sup> Mitchell interview, *supra*.

campaign decisions concerning AMPI. As discussed in the following section, Kalmbach met with AMPI officials in January and February of 1972 to make arrangements for the remaining contribution toward their campaign commitment. On January 13, 1972, the day before one such meeting, Kalmbach conferred with Mitchell who is reported to have been informed, and to have approved, of the continued Kalmbach-AMPI contacts to seek ways for the co-ops to fulfill their \$2 million commitment.

On January 21 at 2:30, Mitchell met with Kalmbach on the subject of campaign contributions. At that meeting Kalmbach reported to him that he had met with the milk producers who had confirmed that the "milk money \* \* \* will continue to come in."<sup>29</sup> The next day, Mitchell approved the civil suit, but directed McLaren to begin pre-filing negotiations.

McLaren has stated that he caused the AMPI suit to be filed on February 1 before he left the Department because he felt that AMPI was not engaging in the negotiations in good faith and that he wanted to "preclude any possible attempt by AMPI to resist the filing of the suit by some political means \* \* \*".<sup>30</sup> In view of the White House involvement, Heininger's reference during the pre-filing negotiations to political contributions and Mitchell's previous decision in the case favorable to the milk producers, there was a basis for McLaren's concern over the progress of the negotiations and the ultimate filing of the suit. There is also evidence that in the months that followed, AMPI officials offered more substantial contributions to gain a favorable resolution of the suit.

### C. FUNDRAISING MEETINGS BETWEEN AMPI AND KALMBACH IN JANUARY AND FEBRUARY 1972

The Bennett committees were closed after the adverse publicity over the 1971 milk producer contributions, but there was still a large amount to be contributed by the milk producers to honor their commitment to the President's campaign, and Nelson wanted to honor that commitment.<sup>31</sup> Instead of working through Harrison and Chotiner, as he had done the previous year,<sup>32</sup> Jacobsen was asked to contact Kalmbach and work out a different set of arrangements, and as a result, several meetings were held between AMPI officials and Kalmbach in January and February.<sup>33</sup> In the meantime, on January 12, 1972, Nelson was replaced as general manager of AMPI by George Mehren, and 2 weeks later, the antitrust suit was filed by the Justice Department against AMPI.

#### 1. KALMBACH-NELSON-JACOBSEN MEETING ON JANUARY 14

Kalmbach was generally uninvolved in the milk producer contributions from the summer of 1971 until the end of the year. At that point, Jacobsen contacted him, explained that he was a partner of Milton Semer (who had delivered the \$100,000 to Kalmbach 2 years before)

<sup>29</sup> Strachan Exhibit 10, 16 *Hearings* 7502. See Kalmbach, 17 *Hearings* 7608-09.

<sup>30</sup> McLaren letter, *supra*.

<sup>31</sup> See Nelson, 15 *Hearings* 6662-63, 6665-66.

<sup>32</sup> Nelson apparently felt that Harrison had been ineffective in arranging for the 1971 contributions. See Mehren, 16 *Hearings* 7254 and discussion *infra*.

<sup>33</sup> Jacobsen, 15 *Hearings* 6437-38.

and told him the milk producers wanted to meet with him again.<sup>34</sup> A meeting was then arranged for Kalmbach, Jacobsen and Nelson for January 14, 1972, in California.

Before the meeting, a major change was made in AMPI's top management. On January 12, the AMPI board voted to remove Nelson as general manager and elected George Mehren, a former Assistant Secretary of Agriculture in the Johnson administration and, from 1968 until 1972, a consultant and then director of programming of AMPI.<sup>35</sup> Nelson was given a 7-year consulting contract renewable annually, at \$100,000 per year,<sup>36</sup> and over the next few weeks Parr and several other AMPI officials and employees left AMPI.

Within hours after his removal, Nelson went to Mehren to ask permission to use the AMPI corporate jet for his trip to California to meet with Kalmbach on the 14th. Nelson says that he told Mehren of the scheduled meeting and Mehren instructed him to follow through with it; Jacobsen testified that before the meeting Nelson told him that Mehren had authorized him to meet with Kalmbach.<sup>37</sup> Mehren denies being told of the meeting but acknowledges that he gave Nelson permission to use the jet "to clean up odds and ends."<sup>38</sup>

On January 13, Nelson and Jacobsen flew to California. When they met with Kalmbach the next morning,<sup>39</sup> they told him that they wanted to continue the contributions in 1972 with as much money as possible but, hopefully, without the type of publicity of the previous year. They indicated that since Nelson had been replaced, Mehren would have to be consulted before any final decisions were made.<sup>40</sup>

It is evident that both Haldeman and Mitchell were monitoring these contacts between Kalmbach and the milk producers. As mentioned above, Kalmbach had met with Mitchell on the 13th, the day before the meeting with Jacobsen and Nelson. Kalmbach says that since Jacobsen was a partner of Semer, who had been active in the Muskie campaign, Kalmbach checked with Mitchell who approved of him meeting with Jacobsen and the milk producers to arrange for further contributions.<sup>41</sup> Kalmbach also reported the results of the January 14 meeting to Strachan who relayed the report to Haldeman in a "Political Matters" memo on January 18:

(1) Herb Kalmbach met with Messrs. Jacobsen and Nelson on January the 14th concerning the milk money. Kalmbach had a "good meeting"; the money will continue to come in, but the milk people do not want to continue to deal with Reeves & Harrison (Chotiner's firm). Kalmbach would take over this project as a special assignment. He will ask the Attorney General on January the 20th. The Attorney General approved of Kalmbach meeting with Jacobsen even though Milt Seimer [sic] is Jacobsen's law partner and treas-

<sup>34</sup> Kalmbach, 17 *Hearings* 7608.

<sup>35</sup> Mehren, 16 *Hearings* 7230.

<sup>36</sup> Nelson, 15 *Hearings* 6506-07.

<sup>37</sup> See Nelson, 15 *Hearings* 6661; Deposition of Harold Nelson, p. 13, *Nader v. Butz* (March 21, 1974); Jacobsen, 15 *Hearings* 6440.

<sup>38</sup> Mehren, 16 *Hearings* 7250-51.

<sup>39</sup> Although there is no record of the flight in the AMPI jet log, the Committee has obtained records of hotel charges for Nelson and the pilots in the Los Angeles area for the night of the 13th and of airport charges to AMPI for an airplane on the 14th. See Mehren, 16 *Hearings* 7250.

<sup>40</sup> Jacobsen, 15 *Hearings* 6442-43. See Kalmbach, 17 *Hearings* 7606.

<sup>41</sup> Kalmbach, 17 *Hearings* 7608.

urer of the Muskie campaign. Kalmbach informed Colson of the meeting but would not tell Colson who asked him to see Jacobsen. Kalmbach believes someone should give all information about the milk situation to Colson. I told him Colson was no longer involved.

*Recommendation.*—That you inform Colson of the milk situation and that Kalmbach be asked not to discuss the milk situation with Colson in the future.<sup>42</sup>

As related by Kalmbach, there was a great antipathy between Colson and both Mitchell and Semer;<sup>43</sup> because of Mitchell's and Jacobsen's involvement, Strachan recommended to Haldeman that Colson not be informed of all aspects of the continuing solicitations of the dairymen. Haldeman approved Strachan's recommendation and wrote at the top of the memorandum "Good job."<sup>44</sup>

According to Mitchell's logs, he next met with Kalmbach on January 21 when Kalmbach reported the results of the meeting to Mitchell. As noted above, this briefing took place the day before Mitchell approved the institution of a civil antitrust suit against AMPI while directing McLaren to delay the filing and begin prefilings negotiations.<sup>45</sup>

## 2. KALMBACH-AMPI MEETING ON FEBRUARY 3

By the time the next meeting in 1972 between Kalmbach and AMPI leaders occurred on February 3, three developments had taken place that would have an impact in subsequent meetings with Kalmbach: First, the Justice Department antitrust suit against AMPI, described above, had been filed on February 1. Second, a lawsuit had been filed by Ralph Nader and several public-interest groups against the Secretary of Agriculture alleging that the 1971 price support increase was illegal. Third, George Mehren had become involved in AMPI's political affairs.

### *a. Nader v. Butz*

On January 24, 1972, a suit was filed in the Federal District Court in the District of Columbia by Ralph Nader, Public Citizen, Inc., Federation of Homemakers and Consumers Association of the District of Columbia, against Secretary of Agriculture Butz who had replaced Secretary Hardin in November 1971, and the Commodity Credit Corporation, alleging that the 1971 milk price support increase was not based on statutory grounds but on political considerations, including contributions. The complaint further alleged that the increase was "unlawful and unenforceable," and sought a declaratory judgment and an injunction against continuing support at the \$4.93 level.<sup>46</sup>

There was immediate reaction to the suit in the White House. On February 1, Dean sent a memorandum to Ehrlichman describing the suit and its background. Although he thought the suit could be defeated, he warned that "the discovery proceedings could prove disastrous."<sup>47</sup> In particular, he pointed out that dairy industry officials

<sup>42</sup> Strachan Exhibit 10, 16 *Hearings* 7502. This document was requested by the Committee but the President refused to provide it. An excised portion of the document was made public in connection with the *Nader v. Butz* case.

<sup>43</sup> Kalmbach, 17 *Hearings* 7609. Mitchell once called Colson "a walking time bomb." *Ibid.*

<sup>44</sup> See Strachan Exhibit 10, 16 *Hearings* 7502.

<sup>45</sup> See Section VI.B., *supra*.

<sup>46</sup> U.S. district court civil action No. 148-72.

<sup>47</sup> Strachan Exhibit 13, 16 *Hearings* 7507.

"will certainly be questioned in detail" about "all commitments made by the President" at the March 23, 1971, meeting and that, in the course of their depositions, "questioning about their duties with the committees and the manner in which the committees operate could prove highly embarrassing in an election year."<sup>48</sup> That same day, February 1, Strachan sent a "Political Matters" memo to Haldeman in which he described Kalmbach's apparent concern about the Nader suit:

Kalmbach is very concerned about his involvement in the milk producers situation. . . . Kalmbach will accept the risk of being subpoenaed by the court in connection with the Nader milk suit. The Attorney General believes Kalmbach should continue to handle the milk project, but Kalmbach wants your advice.

*Recommendation.*—That Kalmbach not be involved in the milk project because of the risk of disclosure.<sup>49</sup>

Haldeman wrote on the memo "I'll disc. w/AG." Based on his notes written on the memo, Strachan says he relayed this comment to Kalmbach on the 3d (the day of Kalmbach's next meeting with the AMPI people) and included this item in a talking paper he prepared for a Haldeman-Mitchell meeting on February 9.<sup>50</sup> As discussed below, White House plans to proceed with the milk producer contributions and Kalmbach's involvement were not changed until March—when the ITT scandal broke and it appeared to Kalmbach that the AMPI case, too, might involve a *quid pro quo*.

#### *b. George Mehren and the Question of Previous Commitments of Contributions*

Although George Mehren had assisted Nelson in the dairy efforts to secure a price-support increase in March 1971, he claims that when he succeeded to Nelson's position in January 1972, he did not know of any commitments for contributions to the President's campaign.<sup>51</sup> Mehren explained that, with the publicity in late 1971 over the price decision and dairy contributions and with widespread rumors among AMPI members of commitments, when he assumed office he did ask AMPI's former officials what political commitments were outstanding, but that no one told him any commitments existed, perhaps because they felt he would not have honored them. For example, Mehren had heard from AMPI employee Byford Bain that Parr had made a commitment to the President's campaign of \$2.6 million. Mehren says that in the

<sup>48</sup> *Ibid.* Also on February 1, Dean sent another memo to Ehrlichman notifying him that the antitrust suit had been filed against AMPI—"the largest of the three cooperatives involved in the Nader case and the organizer of TAPE." Strachan Exhibit 13, 16 *Hearings* 7509.

<sup>49</sup> This document, along with a number of other White House documents referring to milk producer contributions were denied by the President to the Select Committee. Some, but not all of the documents, including an excised portion of the above-described memo, were subsequently made public in the *Nader v. Butz* suit.

In referring to White House communications to him from Colson, Strachan, and perhaps Dean on dairy money, commitments, the antitrust and Nader suits, and related matters, Haldeman observed that they "tended to overdramatize a lot of things, and to lay more import on the language than they really needed." Haldeman tried to discount the "colorful language," as he put it, of these White House memos and explained that "[t]hese were written as internal office memorandums, not as public documents." Haldeman, 16 *Hearings* 7173, 7181.

<sup>50</sup> See Strachan exhibit 11, *supra*; Strachan, 16 *Hearings* 7468-69. The White House has omitted any reference to this alleged talking paper from its list of relevant milk documents.

<sup>51</sup> See Mehren, 16 *Hearings* 7246-47.

presence of John Butterbrodt, the AMPI board president, he asked Parr in early 1972 whether such a commitment existed; according to Mehren, Parr told him, "that no commitment had been made; and he further said that he was not acquainted with Mr. Colson."<sup>52</sup> Mehren says he also asked Nelson and Jacobsen who he says denied knowledge of any commitments but who advised Mehren to make further contributions, by telling him: "We have to live with those people for another 4 years."<sup>53</sup>

Both Jacobsen and Parr dispute Mehren and say that he never even asked them about a commitment, although Jacobsen says he recommended on his own to Mehren that they make a substantial contribution.<sup>54</sup> Moreover, there is evidence that Mehren knew of a commitment and reluctantly had decided to honor it.

Nelson testified that there had been a commitment which in January 1972 he felt had not yet been satisfied, and he says he told this to Mehren.<sup>55</sup> In fact, Robert O. Isham, the TAPE trustee and AMPI comptroller whom Mehren was consulting, says that in the first several months of 1972 Mehren indicated to him that he felt he was going to have to honor their commitments and contribute to the President's campaign.<sup>56</sup> Indeed, Isham says he resigned from TAPE just prior to April 7, in order to avoid involvement in any such contributions.

There is evidence that after Mehren was informed of the facts sometime between January 14 and the February 3 meeting with Kalmbach, the original \$2 million commitment was scaled down to \$1 million. In his February 1st memo to Haldeman, Strachan reported on Kalmbach's progress in raising funds from the milk people, including Kalmbach's belief that, "Jacobsen and Nelson will deliver though they have cut the original 2000 commitment back to 1000."<sup>57</sup>

Nelson testified that he reaffirmed at the January 14 meeting the original \$2 million commitment<sup>58</sup> and, as of January 18, Kalmbach had reported to Strachan no change in that commitment.<sup>59</sup> Although he could not pinpoint the date, Kalmbach presumably was informed of the change between January 18 and February 1, during the period when Nelson and Jacobsen were in touch with Mehren and then Kalmbach to arrange the next meeting between AMPI and Kalmbach.

This evidence and that of the February 3 meeting and events thereafter indicate that Mehren—a life-long Democrat and an official in the Johnson administration with no particular sympathy for the President's reelection effort<sup>60</sup>—felt obligated under the prior commitment and was indeed prepared to meet that obligation, although in the context of AMPI's most recent problem—the antitrust suit.

### *c. February 3 Meeting*

On February 3, Mehren, Nelson, and Jacobsen flew to California and met with Kalmbach and two of his law partners, Frank DeMarco

<sup>52</sup> Mehren, 16 *Hearings* 7233, 7247, 7316.

<sup>53</sup> Mehren, 16 *Hearings* 7249.

<sup>54</sup> Jacobsen, 15 *Hearings* 6442. Deposition of David L. Parr, p. 139, *Nader v. Butz*, (December 12, 1972.)

<sup>55</sup> Nelson, 15 *Hearings* 6665–66.

<sup>56</sup> Isham interview, *supra*.

<sup>57</sup> Strachan Exhibit 11, 16 *Hearings* 7503.

<sup>58</sup> Nelson, 15 *Hearings* 6662.

<sup>59</sup> See Strachan exhibit 10, 16 *Hearings* 7502.

<sup>60</sup> In his testimony before the Select Committee, Mehren stated that, with regard to the 1972 election, "I would have had no great personal trauma if the Republicans would have lost in the Middle West . . .". Mehren, 16 *Hearings* 7268.



(one of the President's tax attorneys and counsel to the California FCRP) and Robert Olson (now a California Superior Court judge). Although DeMarco (who had not previously met the milk producer representatives) does not remember any discussion of contributions, the others present agree that the making of substantial contributions by the dairy co-op was discussed.<sup>61</sup> After Kalmbach told Mehren that it was to be understood that there was no *qui pro quo* involved, Kalmbach told them that he understood they were interested in making a substantial contribution.<sup>62</sup> According to Mehren, the discussion centered on a contribution of \$750,000, and either Kalmbach or DeMarco suggested that most of the money—\$700,000—could be contributed prior to April 7 and the rest later.<sup>63</sup> It was indicated that, as opposed to the previous year, the pre-April 7 money would go to real committees with real officers in a number of States but independent of the State Republican committees. Mehren says that the purpose of the procedure as he understood it was to avoid public disclosure of more milk producer contributions to the President's campaign.<sup>64</sup>

Although Mehren claims he objected to the suggested procedure,<sup>65</sup> there is evidence that as a result of the meeting and further contact with the AMPI people Kalmbach fully expected substantially all of the \$750,000 to come in prior to April 7 to fulfill the amended \$1 million commitment. In a February 16 "Political Matters" memo from Strachan to Haldeman, it was reported that, "Kalmbach is working with the milk people to increase the 233 currently banked to 1,000 by April 7."<sup>66</sup>

At the same meeting on February 3 that there was a discussion of contributions, there was also a discussion of a substantive problem. According to Jacobsen, and as more fully discussed in section VI. E below, Mehren complained to Kalmbach about the Justice Department antitrust suit against AMPI which had been filed 2 days earlier.<sup>67</sup> This was preliminary to further discussions in March and early April which, it is alleged, resulted in an effort to link further contributions to a favorable resolution of the suit.<sup>68</sup>

#### D. MILK PRODUCER MEETINGS ON MARCH 16 WITH KALMBACH AND CONNALLY

In March 1972, the AMPI officials came to Washington and met with Kalmbach and then-Secretary Connally. By then, the milk producers were expressing their deep concern over the antitrust suit, and in light of the emerging ITT scandal, the Republicans apparently

<sup>61</sup> DeMarco interview, Mar. 4, 1974. In fact Olson says some of the discussion of pre-April 7 contributions and committees took place with DeMarco present in DeMarco's office, and that Kalmbach perhaps wanted Olson and DeMarco present as witnesses. Olson interview, March 4, 1974.

<sup>62</sup> Jacobsen, 15 *Hearings* 6443.

<sup>63</sup> See Mehren, 16 *Hearings* 7259; Nelson, 15 *Hearings* 6664. Jacobsen says the pre-April 7 contribution was to be made in several installments such as one-third, one-third, and one-fourth of the total \$750,000 contribution. Jacobsen, 15 *Hearings* 6444.

<sup>64</sup> Mehren, 16 *Hearings* 7259-60.

<sup>65</sup> See Mehren, 16 *Hearings* 7260. John Butterbrodt, AMPI's President, testified that Mehren subsequently told him that Kalmbach suggested the contributions be made to state committees and that the ultimate source—the President's campaign—would not be disclosed and would remain secret. He says that he and Mehren rejected that alternative. Butterbrodt, 17 *Hearings* 7644.

<sup>66</sup> Strachan Exhibit 12, 16 *Hearings* 7504. Kalmbach says he was working out the details of the transaction with Jacobsen after the February 3 meeting. See Kalmbach, 17 *Hearings* 7612-13.

<sup>67</sup> Jacobsen, 15 *Hearings* 6447-48.

<sup>68</sup> See Section VI. E., *infra*.

were developing a new strategy to avoid further embarrassment from milk producer contributions by postponing them until just prior to the election.

### 1. MEETING WITH KALMBACH

By mid-March, Mehren was "beginning to get nervous" about a commitment because of the "remarkable temporal association of contributions" and the price support effort in 1971.<sup>69</sup> As noted above, Isham understood from Mehren that TAPE would contribute and this is corroborated by Nelson who says that Mehren in fact had decided after February 3 but before the next meeting with Kalmbach to contribute more money to the President's campaign.<sup>70</sup>

But by that time, damaging information had been publicized linking the settlement of a Government antitrust suit against ITT and a large contribution by ITT through its subsidiaries for the Republican National Convention, following high-level meetings between Mitchell and ITT officials.<sup>71</sup> Kalmbach says that he anticipated an effort by AMPI to seek a *quid pro quo* on the antitrust suit and that he decided to tell the AMPI officials that he would not solicit any more contributions from them and that any pledge for contributions would be abrogated.<sup>72</sup>

On March 16, Mehren, Nelson, and Jacobsen met with Kalmbach in his room in the Madison Hotel.<sup>73</sup> The meeting was brief. Kalmbach told them of his decision, and Mehren replied that it should be clearly understood that he (Mehren) was not breaching any commitments.<sup>74</sup>

It is not clear whether, as a result of the meeting, all further solicitations for the President's campaign were terminated or just whether Kalmbach personally was withdrawing and that solicitations were being suspended only for a time. Although Mehren says that it was his understanding that no further solicitations would be made by anyone connected with the campaign effort,<sup>75</sup> Kalmbach's message was, according to Mehren's own recollection, more limited; Kalmbach told him that, "I will not proceed any further with discussions or negotiations on political contributions,"<sup>76</sup> and that he "*personally* would make no more representation to AMPI."<sup>77</sup> Nelson says that Kalmbach told them he was not going to seek additional contributions "presently" and that Nelson understood that there would be further solicitations after April 7.<sup>78</sup>

<sup>69</sup> Mehren, 16 *Hearings* 7273.

<sup>70</sup> Nelson, 15 *Hearings* 6667.

<sup>71</sup> An internal ITT memo discussing this matter was first published on February 29, 1972, by Jack Anderson. See Kalmbach exhibit 2, 17 *Hearings* 7624.

<sup>72</sup> Kalmbach, 17 *Hearings* 7615.

<sup>73</sup> The committee has fixed the date of the meeting based upon evidence it has uncovered in its investigation. Mehren and Jacobsen testified that they were not sure of the date of the meeting although they thought it probably occurred sometime in March or April, 1972. See Mehren, 16 *Hearings* 7271-72, 7278; Jacobsen, 15 *Hearings* 6450. Although Mehren said he thought the meeting occurred on April 23 or 24, Kalmbach was not in Washington in April after the 7th. Kalmbach, 17 *Hearings* 7614-15. Nelson testified that the meeting took place on the same day they met with Secretary Connally, which, according to Connally's logs, was March 16. See Section VI.D.2 *infra*. Kalmbach testified that he, too, thought the meeting occurred in mid-March. Kalmbach, 17 *Hearings* 7614. The committee staff has reviewed the logs and hotel charges of those present at the meeting and found that the only time in March or April, 1972, when all four were at the Madison Hotel in Washington was on March 15 and 16. Moreover, Jacobsen added that Kalmbach was about to leave for New York at the time of the meeting, and Kalmbach's logs indicated that he left Washington and went to New York on March 16. Therefore, it appears that the meeting took place on the day of the 16th.

<sup>74</sup> Mehren, 16 *Hearings* 7277.

<sup>75</sup> Mehren, 16 *Hearings* 7276.

<sup>76</sup> Mehren, 16 *Hearings* 7273.

<sup>77</sup> Mehren, 16 *Hearings* 7275. [Emphasis supplied.]

<sup>78</sup> Nelson, 15 *Hearings* 6669-70.

Subsequent events have corroborated Nelson's understanding; it appears that the efforts to obtain further milk producers' support for the President were not terminated on March 16 but only postponed until just prior to the election. In fact, after meeting with Kalmbach on the 16th, the milk producers met with Secretary Connally who in a similar fashion advised them only to postpone their contributions.

## 2. MEETING WITH CONNALLY

The milk producers had secured the assistance of Treasury Secretary Connally in March 1971 in their successful effort to obtain a price support increase. A year later, in March 1972, they again turned to him for help in the antitrust suit and several other matters. It is virtually undisputed that they met with Connally on March 16 and discussed their antitrust, IRS, and other problems; that Connally called Mitchell about the impact of these problems on the President's campaign; and that there was a reference at the meeting to postponing contributions until later in the year. Lilly testified that upon Mehren's return to San Antonio, Mehren told him that it was also understood that the anti-trust suit and a pending IRS investigation of MPI would be slowed and ultimately terminated on favorable terms for AMPI. Before turning to the March 16, 1972, meeting itself, a discussion of the background of the IRS investigation and related matters—including a possible criminal prosecution against AMPI by the Justice Department for a corporate political contribution—is set forth below.

### *a. IRS and Justice Department Investigations*

In the course of a routine audit by IRS of the income tax return of AMPI's predecessor, MPI, for the 1968 fiscal year, IRS agents uncovered payments in 1968 by MPI (and several of its constituent co-ops), totaling over \$90,000 from corporate funds to a Washington, D.C., printing firm ostensibly for the costs of printing a compilation of President Johnson's messages to the 90th Congress, titled, "No Retreat From Tomorrow."<sup>79</sup> Upon further investigation, it was found that, earlier in 1968, the printer had billed and received payment from the Salute to the President Committee (an adjunct of the DNC) and that the subsequent three co-op checks to that firm for the \$90,000 solicited by an official of the DNC constituted a duplicate payment and were therefore endorsed by the printer to the Salute to the President Committee. The co-op reflected these payments on its corporate books partly as an "Advertising" expense and partly as "Office supplies" expense.<sup>80</sup>

The San Antonio IRS agent in charge of the audit, Doyle Bond, notified AMPI in mid-1971 that this transaction was being investigated. Bob Lilly immediately informed Jake Jacobsen, by letter dated August 26, 1971, of the matter and concluded: "This should (and did) raise eyebrows."<sup>81</sup>

Jacobsen says that in 1972, after discussing the tax matter with either Mehren or Nelson, he suggested that AMPI retain Marvin Collie

<sup>79</sup> In addition to the amounts paid to the printing firm, approximately \$14,000 more was also paid by AMPI to two other firms for expenses relating to publication of the book.

<sup>80</sup> In fact, the book "No Retreat From Tomorrow" bears no indication that it was paid for or sponsored by AMPI and thus appears to have been of no advertising or public relations benefit to the co-op.

<sup>81</sup> Lilly letter, 17 *Hearings* 8155.

whom he considered "the best tax lawyer in Texas" and who was a partner of Vinson, Elkins, Searls, Connally & Smith, Treasury Secretary Connally's former law firm.<sup>82</sup> Connally and Jacobsen each testified that before AMPI hired Collie, Jacobsen asked Connally whether he would have any objection. Connally told Jacobsen he did not.<sup>83</sup>

Connally and Jacobsen testified that their discussion took place some time in 1972, possibly at the close of the March 16 meeting with Mehren.<sup>84</sup> However, since AMPI records indicate that Collie was retained by AMPI in January or early February 1972 and the Jacobsen-Connally discussion took place preliminary to AMPI hiring Collie, the conversation must have taken place prior to that meeting. At about the same time that Collie was being retained, IRS Commissioner Johnnie Walters was contacted concerning the matter and personally inquired about it from the IRS regional commissioner from the Southwest region with jurisdiction over the MPI audit, Albert Brisbin.

During January 17 to 19, 1972, Brisbin and Walters attended a meeting for regional commissioners in Washington. At that time, according to Brisbin, Commissioner Walters handed him a three-paragraph document<sup>85</sup> apparently prepared by a co-op representative stating the facts with respect to the tax matter under investigation, and he asked Brisbin to give him a report. Brisbin says he understood that the document had been given to Walters by some high official at the Treasury Department, presumably Connally or one of his Assistant Secretaries. Upon returning to Dallas, Brisbin passed the matter (and the document) on to the then IRS District Director for Austin, Robert Phinney,<sup>86</sup> who in turn sent it to his subordinate with the handwritten comment: "Al Brisbin quoted Commissioner Walters to me saying, 'Do what's right but let's close it as soon as we can.'" Brisbin recalls Walters giving him those instructions at the time he gave him the document in Washington, and he and Phinney agree that Brisbin called Phinney personally to pass on Walters' comment. Phinney considered this a very unusual aspect of the case and said that he did not recall any similar request from Walters.

When asked about the incident, Walters said he had no recollection of handling the document, and he is fairly certain that he did not receive it from Connally or any top Treasury official. Although he knows Collie, Walters is sure Collie did not speak to him about the case. Walters has some recollection of having heard the title of the book and of telling an IRS official to complete the audit and not let the matter drag on.

As a result of Walters' inquiry, a meeting was held in Brisbin's office on February 1, 1972, at which agent Bond briefed the regional officials, including Brisbin. By that time, Bond had recommended that the matter be referred to the Criminal Division of the Justice Department as a possible violation of title 18, section 610 (corporate political contributions). At the meeting, three decisions were made: the taxpayer (AMPI) was to be given an additional opportunity to justify the expenditures to IRS (before IRS disallowed them); the matter

<sup>82</sup> Jacobsen, 15 *Hearings* 6470.

<sup>83</sup> Connally, 14 *Hearings* 6077; Jacobsen, 15 *Hearings* 6470.

<sup>84</sup> See Connally, 14 *Hearings* 6077; Jacobsen, 15 *Hearings* 6464.

<sup>85</sup> 17 *Hearings* 8157.

<sup>86</sup> Phinney retired from the IRS in 1973.

would be referred to the Criminal Division for possible criminal prosecution; and a sensitive case report would be prepared for the Commissioner. The report was prepared and hand-delivered by Brisbin to Walters a week later, when Walters was in Texas on unrelated matters and, on February 15, the report was forwarded to Washington. Walters had no recollection of the briefing or the report.

With respect to the referral for criminal prosecution, Brisbin said that his District Director, Phinney, still objected to the referral after the February 1 meeting. Normally, the District Director would sign the referral and the Regional Commissioner would not review it. However, because of Phinney's objections, Brisbin says that, in an unusual move, he overruled Phinney and took the matter from him and, on February 22, 1972, personally signed the memorandum for referral of the matter to the Justice Department.<sup>87</sup>

Even more unusual was the reason Brisbin says Phinney gave for his objection. According to Brisbin, Phinney didn't object on substantive grounds; rather, Phinney expressed concern to Brisbin that if the matter were referred to the Justice Department, "it will be written up in Jack Anderson." Phinney, who was interviewed before Brisbin, made no mention in a staff interview of any objection on his part to the referral.

Brisbin says he understood Phinney to be concerned about possible embarrassment to the former President and those close to him, including Connally. Phinney had known President Johnson and Connally for over 25 years, and had joined with Connally and several others in 1946 in investing in a local radio station in Texas.

Phinney says that he had no contact with Connally concerning the audit, but acknowledged that Collie, whom Phinney also knew, did speak to him once about the matter. According to Phinney, Collie told him that he had been retained by AMPI and he was advising his client not to oppose the IRS disallowance of the expense deduction for the book. Phinney says that he told Collie of the referral to the Justice Department. Although Phinney recalls Collie meeting with him in Phinney's office, Collie's billings to AMPI show only one contact with Phinney, a long distance telephone call on March 8, 1972.

Collie had been interviewed by the staff prior to the Phinney interview. When questioned about his conversation with Phinney, he testified:

Q. What did Mr. Phinney tell you? What was the total of his conversation?

A. I told Mr. Phinney that I had advised AMPI to give up entirely on the assertions by the Internal Revenue Service and that I hoped that that would close the case.

I further said that it involved, the case involved people of wide public fame and that I certainly hoped that there wouldn't be leaks and he would take appropriate action to make sure that the normal secrecy of the Internal Revenue Service was asserted.

Q. What did Mr. Phinney have to say?

A. He thanked me for the information. He said he assumed

<sup>87</sup> Brisbin's memo was forwarded to the Intelligence Division of IRS, according to regular IRS procedure, and then forwarded to Henry Petersen, Assistant Attorney General, on February 29, 1972.

that the usual secrecy would be preserved, but he was familiar with the case and that—well, that was about all.<sup>88</sup>

Collie made no reference to the matter of the referral to the Justice Department Phinney says was discussed.

During the following week (March 13–17), the revenue agent, Bond, met with AMPI representatives who informed him that AMPI would not contest disqualification of the expense deduction in question. On March 15, 1972, Bond recommended to his superior that he be permitted to audit the returns for the subsequent 2 years (the final two returns filed by MPI, for the periods ending June 30, 1969 and September 30, 1969 and the first AMPI return for the period ending June 30, 1970). In his recommendation Bond stated that “at least one more examination should be conducted before we can really evaluate the audit potential of the organization.” In contrast to the time spent on the 1968 audit—according to IRS records, approximately 1,700 hours—he noted that “future examinations can be conducted in considerably less time.” Within the next few days, AMPI notified IRS that it would not contest the IRS disallowance of the expense deductions for the book, and the 1968 audit was closed.<sup>89</sup>

At that point—after the referral to the Justice Department and Bond’s recommendation for additional tax audits—Mehren, Nelson, and Jacobsen met with Connally.

### *b. The Meeting*

Jacobsen says that he wanted to introduce Mehren to Connally whom he considered to be influential in the administration.<sup>90</sup> Mehren says Jacobsen told him: “Mr. Connally has become a very important man in this administration; he is going to be an important man in the future.”<sup>91</sup>

Jacobsen thought the first meeting would be purely introductory and that he did not expect Mehren to take up with Connally any problems until a later time. Instead, Mehren took the opportunity “as a forum for discussing all the problems . . . that AMPI had been having with this administration,” including “the antitrust suit and dairy imports and price supports.”<sup>92</sup> Mehren says he told Connally that the antitrust litigation was costing AMPI a great deal of money and that, together with actions in other areas, evidenced “a pattern of adverse reaction on the part of the administration.”<sup>93</sup>

Both Mehren and Jacobsen conceded that the antitrust matter was discussed with the hope that Connally would perhaps talk to others to help them in the ongoing settlement negotiations, and Jacobsen says that Connally was “sympathetic.”<sup>94</sup> Connally says the antitrust suit and other problems were reviewed as “an informative type of thing,” and he does not recall that they asked him to do anything for them.<sup>95</sup>

<sup>88</sup> Collie interview, December 12, 1973.

<sup>89</sup> The final report of the results of the IRS audit was sent to AMPI on or about April 15, 1972.

<sup>90</sup> Jacobsen, 15 *Hearings* 6460.

<sup>91</sup> Mehren, 16 *Hearings* 7263.

<sup>92</sup> Jacobsen, 15 *Hearings* 6461, 6463.

<sup>93</sup> Mehren, 16 *Hearings* 7264–65.

<sup>94</sup> Mehren, 16 *Hearings* 7267; Jacobsen, 15 *Hearings* 6462.

<sup>95</sup> Connally, 14 *Hearings* 6074.

Connally responded to AMPI's request—immediately and apparently at a purely political level. Connally says that he called Mitchell that day or the next day to relay to him the information that the antitrust suit was going to have a “very damaging effect . . . [p]olitically upon the Republican party.”<sup>96</sup>

By Mehren's account Connally telephoned Mitchell during the meeting in the presence of Mehren, Nelson and Jacobsen, despite the fact that Connally considered this “unusual.”<sup>97</sup> Mehren says Connally told Mitchell that:

I have a group of people here who seem to be somewhat incensed with what they seem to consider systematic punitive action of this administration . . . This can do us damage in the Middle West . . . You get some people out there and find out what is going on because we are going to have political trouble if we don't.<sup>98</sup>

Mehren says Connally also called Senator Dole, then chairman of the Republican National Committee, and gave him essentially the same information.<sup>99</sup>

It appears that, in addition to these references to the political aspects of the antitrust suit, there was a reference to political contributions in the meeting—according to Mehren, at Connally's initiation. Mehren testified that at the end of the meeting Connally remarked that political contributions “would be more useful toward the end of the campaign than now . . . They'll need it worse at the end of the campaign than they do now.”<sup>1</sup>

When Connally was asked in an executive session before the Select Committee on November 15, 1973, whether there was any discussion of the timing of political contributions by the milk producers, Connally testified that he did not recall any discussion of contributions.<sup>2</sup> After Mehren testified that there was, the committee asked Connally to submit an affidavit to the committee responding to several questions including the following:

Q. In your meeting with Harold Nelson, Jake Jacobsen and George Mehren on March 16, 1972, was the subject of campaign contributions from the dairy people to the President's reelection effort, including the amount, form and timing of such contributions, discussed?

Connally submitted an affidavit to the committee dated April 11, 1974, in which, contrary to his earlier testimony, he states that he now does recall a reference to contributions at the meeting, although he says Mehren, not he, initiated the discussion:

During Dr. Mehren's discourse on AMPI's problems, including Internal Revenue problems and the antitrust suit which had been filed, as I recall, he made some general comment to the effect that under all the circumstances AMPI

<sup>96</sup> Connally, 14 *Hearings* 6075, 6078. Connally's logs indicate a call to Mitchell on the day of the meeting, March 16, but no record was kept of the time of his telephone calls, except for those to and from the President. See Connally Exhibit 2, 14 *Hearings* 6093.

<sup>97</sup> Connally, 14 *Hearings* 6075.

<sup>98</sup> Mehren, 16 *Hearings* 7267. Mitchell said that he could not remember any call from Connally about the milk producers antitrust suit. Mitchell interview, *supra*.

<sup>99</sup> Mehren, 16 *Hearings* 7268-69.

<sup>1</sup> Mehren, 16 *Hearings* 7269, 7271.

<sup>2</sup> Connally, 14 *Hearings* 6076.

probably should discontinue all political contributions until later. I responded by saying something to the effect that this sounded reasonable. I do not recall any specific discussion of campaign contributions to the President's reelection effort in this meeting, nor a discussion of the amount, form, and timing of any such contributions, except as the general discussion mentioned above can be considered to encompass these subjects.<sup>3</sup>

Connally's advice was consistent with Kalmbach's message to the milk producers that day that Kalmbach was not then accepting further dairy contributions.

As Connally indicates in his affidavit submitted to the committee, the tax matter was discussed at the meeting. Jacobsen expressed his opinion that, although there may have been some reference to the IRS matter at the March 16 meeting—and, according to Connally, there was—he thought it would have been “improper” to talk to Connally about the pending case.<sup>4</sup> In a conversation with Mehren after the March 16 meeting (discussed below), Lilly recalls (based on his notes of the conversation) that Mehren told him that Connally had called Mitchell during the meeting and that there had been a discussion of a “promise to go slow on IRS.”<sup>5</sup>

At the close of the meeting, Jacobsen remained behind and conferred privately with Connally for approximately 5 minutes to discuss, in Jacobsen's words, “Texas politics.” Although Jacobsen and Connally say that may have been the occasion on which they discussed Collie representing AMPI on the IRS matter,<sup>6</sup> it now appears (as discussed above) that their discussion took place at some earlier time.

### *c. Lilly's Account*

Several weeks after the meeting, Mehren relayed to Bob Lilly the substance of the meeting with Connally. Lilly has contemporaneous notes which he made of his conversation with Mehren which indicate that it was understood that, as a result of the meeting, the antitrust and IRS matters were going to be resolved in AMPI's favor and milk producer contributions were to be delayed until later in the year.

It is striking how much of Lilly's hearsay account, given to the Select Committee in November 1973—the first time the Select Committee learned of the March 16 meeting—has been corroborated by evidence subsequently obtained by the committee. According to Lilly, Mehren, Nelson and Jacobsen met with Connally in his office in March 1972 and that, in their presence, Connally called Mitchell and discussed (1) delaying contributions to the Republican Party by AMPI's political trust; (2) slowing down the antitrust suit against AMPI and, at a later time, reducing it to a wrist slap; and (3) promising to go slow on the IRS audit of AMPI. Lilly says that Connally then called Senator Dole who, like Mitchell, agreed to defer any obligations due the Republican Party, meaning contributions that might be due, but to delay them until near the general election time.<sup>7</sup> Lilly says

<sup>3</sup> Connally affidavit, 14 *Hearings* 6103.

<sup>4</sup> Jacobsen, 15 *Hearings*, 6470–71.

<sup>5</sup> Lilly, 14 *Hearings* 6117.

<sup>6</sup> See Connally, 14 *Hearings* 6077; Jacobsen, 15 *Hearings* 6464.

<sup>7</sup> Lilly, 14 *Hearings* 6117.



he understood that the AMPI representatives had met with Kalmbach, too, in March.<sup>8</sup>

Since the time of Lilly's testimony, the participants in the meeting have acknowledged that the antitrust and IRS matters were discussed, that Connally called Mitchell and Dole and discussed the political implications of these problems and that Connally at least concurred in a delay in further contributions. Nonetheless, standing alone, Lilly's hearsay account, based upon a report provided by Mehren, of the understandings allegedly reached on the IRS and antitrust matters—not supported by the participants—might have to be discounted. However, at least that aspect of Lilly's account in connection with the antitrust suit is supported by events several weeks after the meeting. According to Kalmbach and others, on April 4, Mehren—whether from a misunderstanding of the discussions on March 16 or from an eagerness to demonstrate to the administration his good faith intention to support the President's reelection effort, contacted Kalmbach and made an attempt to make a substantial pre-April 7 contribution in exchange for assistance in terminating the Justice Department antitrust suit against AMPI, as discussed below.

### 3. DISPOSITION OF THE TAX INVESTIGATIONS

The investigation by the committee has uncovered no evidence of any improper action taken by governmental officials after the March 16 meeting in Connally's office either with respect to the IRS audit or the case referred to the Justice Department. However, for several reasons apparently unrelated to the Connally meeting, no further IRS audits were undertaken that year and no criminal prosecution was ever brought for the possible corporate contribution.

First, with respect to the IRS, the deductions in question were disallowed, reducing MPI's reported loss for the year 1968.<sup>9</sup> Later in 1972, responsibility for examining farmer cooperatives was transferred from exempt organization specialists to income tax agents. Accordingly, Bond's responsibility for MPI and AMPI was transferred to another IRS agent who reviewed the returns for the subsequent years and determined that since AMPI had a loss-carryforward of over \$1 million for its tax period ending September 30, 1969, there was no "income tax potential" to justify time-consuming audits and no additional audits were undertaken at that time. Moreover, it was generally assumed at that time that there were no additional corporate contributions by MPI or AMPI since the co-op had formed a vehicle for making legal dairy contributions—TAPE—during the 1969 fiscal year—the year immediately following the year that had already been audited.

It should be noted, however, that since the completion of the IRS review in 1972 there have been disclosures of additional corporate contributions in the 1968–72 period,<sup>10</sup> and full IRS audits of the returns for 1969 forward have been undertaken. In addition, in 1974, AMPI filed amended returns for those years, in which the loss carryforward has been fully depleted in the 1972 return, resulting in substantial taxable income to AMPI, including over \$260,000 in 1972, alone.

<sup>8</sup> Lilly, 14 *Hearings* 6123.

<sup>9</sup> When asked of the final result in the IRS matter, Jacobsen replied that "a pretty sizable deficiency" was paid. Jacobsen, 15 *Hearings* 6472. This, of course, is inaccurate.

<sup>10</sup> See Wright Report.

Second, according to Henry Petersen, Assistant Attorney General for the Criminal Division, there was some question about the applicability of section 610 to the MPI expenditure<sup>11</sup> but nonetheless, the decision was made by the Division in 1972 to investigate it further. However, after some investigation by the FBI, the Justice Department file was mistakenly returned to the inactive files of the Department and not discovered until 1974 after the statute of limitations to the transaction in question had expired. In any event, Petersen flatly denied any improper conduct by his Division in connection with the investigation.<sup>12</sup>

#### E. APRIL 4, 1972—AN ABORTED CONTRIBUTION AND THE ANTITRUST SUIT

George Mehren, AMPI's general manager, has stated publicly a number of times that he rejected a request from Kalmbach that AMPI make a further contribution to the President's campaign and that his refusal helped precipitate the Justice Department's decision to file the antitrust suit.<sup>13</sup> None of the evidence uncovered by the committee or, apparently, by the Special Prosecutor,<sup>14</sup> supports that contention. In fact, as explained above, the evidence tends to show that the Attorney General made several decisions favorable to the dairymen after he had become fully aware of AMPI's past and promised support for the campaign effort and after he had consulted with Haldeman and perhaps others on the possible impact of an unfavorable decision on further contributions. Mehren did not even meet with Kalmbach until *after* the suit was filed and it was not until the day the suit was filed that Haldeman was informed that the dairymen were not going to contribute the full \$2 million. What's more, there is evidence that AMPI not only tried to use its political influence to delay the filing of the suit, but that after it was filed Mehren offered to make a substantial contribution in exchange for assistance from the White House on the suit.

<sup>11</sup> The book was distributed at the end of 1967, several months before President Johnson announced he was not seeking re-election. Section 610 prohibits a corporate contribution "in connection with any election . . . political convention or caucus . . ." 18 U.S.C. sec. 610. The question was raised by those at the Department of Justice as to the relationship, if any, between the MPI expenditure and the 1968 campaign.

<sup>12</sup> Petersen and former Attorney General Kleindienst did acknowledge in staff interview that there were several inquiries in 1972 made by Connally for Jacobsen, but with respect to another matter—a pending Criminal Division investigation of Jacobsen's involvement in a possible savings and loan fraud in Texas. Kleindienst remembers being contacted by Connally and passing on the inquiry to Petersen. Petersen recalls four inquiries in all—two from then Attorney General Mitchell and then two more from Kleindienst, the first after Connally had called Kleindienst and the second after a call from the White House to Kleindienst. Petersen says he was upset over the number—although not the content—of these calls. In any event, although it appears that Connally made these calls on behalf of Jacobsen, Petersen says there was no reference to the AMPI-IRS matter by Connally.

<sup>13</sup> See *Hoard's Dairyman* 1004 (Aug. 25, 1973). See also *The Washington Post* (July 26, 1973), at A23.

<sup>14</sup> The suggestion that political contributions in any way influenced the Justice Department's decision to file the civil antitrust suit against AMPI is not supported by any documents in the possession of the Justice Department or the Special Prosecutor. Jon Sale, Assistant Special Prosecutor, Watergate Special Prosecution Force, has filed an affidavit in the antitrust suit in response to a motion by defendants for production of documents. Sale's affidavit states the following:

I am familiar with all the documents and recordings in the possession of the Watergate Special Prosecution Force relating to political contributions from milk cooperatives. None of these documents or recordings support AMPI's allegations that *United States v. AMPI* was filed for the purpose of inducing representatives of AMPI to cause the Trust for Agricultural Political Education (TAPE) to make campaign contributions directly or indirectly to individuals or organizations involved in the raising of funds for the reelection of President Nixon. Affidavit of Jon Sale, *United States v. AMPI*, W. D. Tex. (Dec. 19, 1973).

## 1. PRE-APRIL 4 DISCUSSIONS

After the antitrust suit was filed, AMPI representatives, such as Mehren and Murray Chotiner, expressed their unhappiness over the suit to a number of administration representatives, including Mitchell and, as noted above, Kalmbach and Secretary Connally. At the same time discussions about additional contributions continued.

*a. Kalmbach, Jacobsen and Mehren*

At the February 3 meeting with Kalmbach when the additional \$750,000 contribution was discussed, Mehren apparently talked to Kalmbach about the antitrust suit, who according to Jacobsen, was "sympathetic."<sup>15</sup> Jacobsen says that Mehren did not want to give to the President's campaign after the administration had filed suit against him and that Mehren told that to Kalmbach.<sup>16</sup> Nonetheless, there is evidence that Mehren felt that a contribution was wise or obligatory to fulfill prior commitments and in view of the antitrust suit. As noted above, he told Isham early in 1972 that they were going to have to contribute, and Jacobsen says Mehren told him that he hoped the contribution would help alleviate the milk producers' problem with the antitrust suit.<sup>17</sup>

*b. Chotiner and Mitchell*

AMPI did not limit itself to one line of contact with the administration about the antitrust suit; in addition to Jacobsen contacting Kalmbach, Marion Harrison and Murray Chotiner were contacting the top officials at the Justice Department, including Attorney General Mitchell.

In late January 1972, several weeks after Mehren had replaced Nelson, Harrison flew to San Antonio and met with Mehren in an attempt to solidify his firm's relationship (and its \$108,000 per year retainer) with the new management. Mehren says that Harrison told him that he had played a major role in arranging for the dairy contributions the previous year, although, according to Mehren, Nelson, and Parr had expressed to Mehren their opinion that Harrison had been "ineffective" with respect to those contributions.<sup>18</sup> In any event, additional contributions were discussed and Harrison gained the impression that Mehren did not want to make any further contributions for the President's campaign.<sup>19</sup>

At about the same time as the Harrison-Mehren discussion of contributions, Stuart Russell, one of AMPI's counsel who was engaged in pre-filing negotiations with the Chicago office of the Justice Department, contacted Harrison and asked him to see if anything could be done before the suit was filed.<sup>20</sup> Before Harrison could act, however, the suit was filed. Harrison then talked to Chotiner, who was counsel to the Harrison firm and who had also been involved in the dairy

<sup>15</sup> Jacobsen, 15 *Hearings* 6448.

<sup>16</sup> Jacobsen, 15 *Hearings* 6448, 6449. Neither Mehren nor Kalmbach recall discussing the antitrust suit at the February 3 meeting, although Kalmbach did discuss the matter with Mitchell with whom he was discussing his solicitations of the milk producers. See section VI.C. *supra*; Mehren, 16 *Hearings* 7260-61; Kalmbach 17 *Hearings* 7611-13.

<sup>17</sup> See Isham interview, *supra*; Jacobsen, 15 *Hearings* 6448.

<sup>18</sup> Mehren, 16 *Hearings* 7254.

<sup>19</sup> Harrison, 17 *Hearings* 7689.

<sup>20</sup> Harrison, 17 *Hearings* 7680-81.

contribution and price support activities the previous year, and the two agreed that since Richard Kleindienst had been nominated to replace Mitchell, who was leaving to head the President's campaign effort, they should await Kleindienst's confirmation and then speak to him about the suit.<sup>21</sup>

The next night, February 24, 1972, Chotiner met Mitchell at a so-called "Agnew-Sinatra" cocktail party and asked him about the suit. According to Chotiner, Mitchell merely puffed on his pipe.<sup>22</sup> Mitchell says he attended the party but does not recall any discussion with Chotiner.<sup>23</sup>

Although Chotiner's description of Mitchell's response seems to indicate that the conversation was probably insignificant—and definitely one sided—Harrison thought the meeting was important enough to describe Chotiner's account of it to George Mehren in a letter dated the next day, February 25, 1972. The letter reads:

In view of the changing of the guard, apart from Jake's reasoning, I decided, with Murray's concurrence, not to talk with the incumbent but to take the matter up anew with his successor.

Then Murray ran into John at the Agnew-Sinatra party. They had a tete-a-tete on another matter and this subject came up. The version of the facts I surmised to you by telephone is confirmed. I guessed "right."

The confirmation vote will be no earlier than February 29 and probably later next week. After that, I'll go see the new management. . . .

In a week or two I'll endeavor to zero in.<sup>24</sup>

Harrison explained that his "version" of the facts was that McLaren was responsible for filing the suit and that Mitchell had merely signed off on the suit and knew little about the circumstances of its subsequent filing.<sup>25</sup> Harrison also says that his reference to "Jake's reasoning" was to the fact that Jacobsen felt nothing could be done about the suit.<sup>26</sup> However, Jacobsen testified that he does not know what was meant by "Jake's reasoning," and that, contrary to Harrison's view of his "reasoning," he felt political contributions could help AMPI in all its problems, including the antitrust suit.<sup>27</sup>

Because of the ITT scandal, Kleindienst was not confirmed by the Senate until June 8, 1972, after which Harrison was to "zero in" and see the new Attorney General, which he did.<sup>28</sup> Apparently nothing came from that contact and, at the end of June, AMPI fired the Harrison firm, because, according to Chotiner, it did not get a good response for AMPI from the administration.<sup>29</sup>

<sup>21</sup> See Harrison, 17 *Hearings* 7682; Weitz affidavit, Exhibit B, 17 *Hearings* 8010-11.

<sup>22</sup> Weitz Affidavit, *supra*.

<sup>23</sup> Mitchell interview, *supra*. As noted above, Mitchell in a staff interview said that the only person other than Kalmbach with whom he would have discussed the milk producers situation was Chotiner.

<sup>24</sup> Mehren Exhibit 1-C, 16 *Hearings* 7352.

<sup>25</sup> Harrison, 17 *Hearings* 7686.

<sup>26</sup> Harrison, 17 *Hearings* 7685-86.

<sup>27</sup> Jacobsen, 15 *Hearings* 6465, 6467.

<sup>28</sup> Harrison, 17 *Hearings* 7682-83, 7687.

<sup>29</sup> See Weitz Affidavit, 17 *Hearings* 8011.

## 2. APRIL 4 MEETING AND CONTACTS WITH KALMBACH ABOUT THE ANTI-TRUST SUIT AND CONTRIBUTIONS

Despite Mehren's alleged reluctance to contribute to the President's campaign and despite his conversations with Kalmbach and Connally on March 16, there is evidence that Mehren made one last effort prior to April 7 to make a substantial contribution in order to secure White House intervention in the antitrust suit. According to Lilly and Nelson, a meeting was held on April 4, in Mehren's office to discuss the matter and, as a result of the meeting, checks for a \$150,000 contribution to the President's campaign were drawn but later voided, after Kalmbach says he rejected Mehren's offer of a *quid pro quo* involving the antitrust suit.

### a. The Meeting

Present at the April 4 meeting were Mehren, Lilly, Nelson, and perhaps for part of the meeting, Lynn Elrod, another AMPI employee and assistant to Mehren.<sup>30</sup> Lilly says that at the meeting it was decided that prior to April 7 Nelson was to deliver a total of \$300,000 from the three dairy trusts (\$150,000 from TAPE, \$100,000 from ADEPT and \$50,000 from SPACE).<sup>31</sup> Before consenting to make a contribution, Mehren called John Butterbrodt, AMPI's President, to obtain his approval.

As related by Lilly, Mehren also wanted to talk to Kalmbach so that he and all Republicans would know that AMPI was not welching on its commitment made the previous year in connection with the milk price support decision. Lilly added: "Further, Mehren stated he expected the Justice Department to slow down its antitrust suit against AMPI and later reduce it to a wrist slap".<sup>32</sup>

Lilly says that Mehren then called Jacobsen in Austin and asked him to contact Kalmbach to arrange for the contribution. Jacobsen called Mehren back and told him that Kalmbach would call him that night.<sup>33</sup>

In the meantime, 30 checks each for \$5,000, for a total of \$150,000, were drawn but with the names of the payees left blank, awaiting committee names from Kalmbach.<sup>34</sup> That morning, however, Robert Isham, the sole TAPE trustee, had resigned to avoid having anything to do with the contemplated contribution.<sup>35</sup> As a result, the checks were drawn on the account of AMPI's new political arm, CTAPE, which was then being organized to replace TAPE, and were signed by the two signatories on the recently opened CTAPE account, Mehren and Elrod.<sup>36</sup>

<sup>30</sup> See Lilly, 14 *Hearings* 6118; Deposition of Harold Nelson, *United States v. AMPI*, p. 6, (March 24, 1974.)

<sup>31</sup> Lilly, 14 *Hearings* 6121.

<sup>32</sup> Lilly, 14 *Hearings* 6118.

<sup>33</sup> Lilly, 14 *Hearings* 6121.

<sup>34</sup> Lilly, 14 *Hearings* 6121; see Lilly exhibit 30, 14 *Hearings* 6191.

<sup>35</sup> Isham interview, *supra*; see Isham memo, 17 *Hearings* 8158-63.

<sup>36</sup> At the time the checks were drawn, there were insufficient funds in the CTAPE account to cover the checks. However, there were ample funds in the TAPE account and, under the TAPE trust agreement, the AMPI Board had the authority to appoint a new trustee who could either have written the checks on the TAPE account or have transferred the funds to the CTAPE account to cover the checks after they had been delivered but before they had been cashed by the President's campaign committees. In fact, at the April 12-13 meeting of the AMPI board, Mehren was appointed trustee for TAPE and, throughout the remainder of 1973, TAPE transferred over \$1 million to the CTAPE account.

Lilly says that since only 26 checks were in the CTAPE checkbook in San Antonio, he had to contact Jacobsen in Austin to have four blank checks delivered that day from the Citizens National Bank, of which Jacobsen was chairman.<sup>37</sup> Late in the afternoon, at 4 or 4:30, John Parker, an officer at the bank, called Lilly and told him that another bank employee, Don Wallace, would deliver the extra four checks. At about 6 p.m. Wallace arrived at AMPI and delivered the checks which were completed by an AMPI secretary, Verna Polk.<sup>38</sup> It then appears that Elrod signed the four checks and took them to Mehren's home that evening for his signature before Mehren left San Antonio early the next morning for an AMPI meeting in Fond du Lac, Wis.<sup>39</sup>

The 30 checks were voided within a day or two by Elrod at Mehren's direction and never delivered. Although Mehren and Elrod readily concede that fact, both claim they have no recollection of why they were drawn in the first place or later voided.<sup>40</sup> However, by Kalmbach's and Lilly's accounts, Mehren did speak that evening to Kalmbach who rejected Mehren's offer of a *quid pro quo*.

#### b. Kalmbach's call to Mehren

Kalmbach says that on or about April 4 Jacobsen talked to him by telephone and asked him to call Mehren. When Kalmbach made the call the same evening, Kalmbach says that Mehren told him that he was ready to make a substantial contribution but that he had wanted to talk to Kalmbach before doing so. Mehren expressed concern over the antitrust suit and asked him to speak to someone at the White House on AMPI's behalf.<sup>41</sup>

Kalmbach understood the message—the contribution was to be made in order to have Kalmbach contact the White House for help on the antitrust suit. Kalmbach says he rejected Mehren's offer and request. At that point, according to Kalmbach, Mehren appeared particularly frustrated and said something to the effect that: "here you're asking for contributions and you're not willing to help."<sup>42</sup> The conversation then ended rather abruptly.

Kalmbach says he reported to Ehrlichman that he had broken off contact with the "milk people" because they were seeking a *quid pro quo* and that Ehrlichman had told him "that's good judgment."<sup>43</sup> Although he thought it had occurred before 1972, Ehrlichman did recall such a conversation with Kalmbach.<sup>44</sup>

#### c. Corroboration of Lilly's Account

On November 16, 1973, Lilly testified in executive session that Mehren had told him (shortly after April 4, 1972) that Kalmbach had called him and refused the contributions—just as Kalmbach testi-

<sup>37</sup> Lilly, 14 *Hearings* 6122.

<sup>38</sup> See Wallace affidavit, 17 *Hearings* 8001; Polk interview, December 17, 1973.

<sup>39</sup> See Elrod interview, *supra*.

<sup>40</sup> See Lilly exhibit 30, 14 *Hearings* 6191; Mehren, 16 *Hearings* 7281-84; Elrod interview, *supra*.

<sup>41</sup> Kalmbach, 17 *Hearings* 7616-17.

<sup>42</sup> Kalmbach, 17 *Hearings* 7621.

<sup>43</sup> Kalmbach, 17 *Hearings* 7618-19, 7622. Kalmbach is not sure whether he reported this to Ehrlichman after his March 16 meeting or April 4 conversation with Mehren. If it was between March 16 and April 4, Kalmbach says that he anticipated that AMPI would request a *quid pro quo*—which he says Mehren did on April 4. See Kalmbach 17 *Hearings* 7619, 7622.

<sup>44</sup> See Ehrlichman, 16 *Hearings* 7374.

fied before the committee 4 months later in March 1974. As in the case of several other incidents investigated by the committee, Lilly's account of the meeting and of the call from Kalmbach on April 4 have been corroborated by independent evidence, most of which was unknown and unavailable to Lilly at the time he testified. This corroboration includes the following:

*Mehren's Logs.*—Mehren's logs indicate that a meeting was scheduled and held in his office on April 4 involving himself, Nelson, Lilly, and possibly Elrod. Mehren concedes that the meeting took place but says he cannot recall the subject of the meeting.<sup>45</sup>

*Butterbrodt's telephone records.*—Lilly testified that Mehren conferred with Butterbrodt on the \$150,000 TAPE-CTAPE contribution. Butterbrodt confirms that after the February 3 meeting with Kalmbach, Mehren told him that money could be contributed secretly to the President's campaign prior to April 7 via State committees; but since they had agreed to reject that approach, Mehren did not discuss another contribution with him on April 4.<sup>46</sup> However, Butterbrodt's telephone records indicate that he called the San Antonio home office twice on the morning of the 4th and he assumes that, as Lilly testified, he talked to Mehren at least one of those times.<sup>47</sup>

*Nelson testimony.*—Like Lilly, Nelson has testified that he attended the meeting on April 4 and that Mehren did not want to contribute the \$150,000 unless he was able to speak to Kalmbach to see if he could help them with the antitrust suit.<sup>48</sup>

*The voided checks.*—The CTAPE records reflect 30 checks, each for \$5,000 drawn in blank, signed by Mehren and Elrod, and voided by Elrod.<sup>49</sup> Employees at the Citizen's National Bank, John Parker and Don Wallace, and at AMPI, Verna Polk and Lynn Elrod, confirm Lilly's account that 4 of the 30 checks were delivered to AMPI from the Austin bank late on the afternoon of the 4th and apparently rushed to Mehren's home for him to sign them that evening.<sup>50</sup>

*Kalmbach's telephone logs.*—The records of Kalmbach's telephone calls, and the appropriate records of the San Antonio and Austin telephone companies, reflect that on April 4, Kalmbach called both Jacobsen and Mehren.<sup>51</sup>

*Dwight Morris-Butterbrodt Conversation.*—The committee has uncovered further evidence to corroborate the account of Mehren's attempt to secure a *quid pro quo*. In response to a committee questionnaire to present and former AMPI directors and employees, former AMPI official Dwight Morris stated, and later testified before the committee, that John Butterbrodt discussed the matter with him 1 week after it occurred.

<sup>45</sup> See Mehren, 16 *Hearings* 7282.

<sup>46</sup> Butterbrodt, 17 *Hearings* 7643-44.

<sup>47</sup> Butterbrodt, 17 *Hearings* 7646-47.

<sup>48</sup> Deposition of Harold Nelson, pp. 8-9, *U.S. v. AMPI*, March 21, 1974. Nelson does not recall any discussion at the meeting of a total of an additional \$150,000 from ADEPT and SPACE.

<sup>49</sup> See Lilly Exhibit 30, 14 *Hearings* 6191-92.

<sup>50</sup> See Parker affidavit, Wallace affidavit and Elrod and Polk interviews, *supra*.

<sup>51</sup> During 1972, Kalmbach charged some of his telephone calls concerning the campaign to an RNC credit card, and a committee search of the RNC records revealed, for the first time to Watergate investigators, that he charged calls to one number in San Antonio and one in Austin on the 4th. See Manuel affidavit, 17 *Hearings* 7977-79. A committee check of the telephone records for the San Antonio and Austin telephone companies revealed that, on April 4, 1972, those numbers were listed for George Mehren and Jake Jacobsen, respectively. See Hamilton affidavit, 17 *Hearings* 7913-15; Zittle affidavit, 17 *Hearings* 8053.

Morris had been secretary to the board of AMPI and vice president of the Southern region and Arkansas division of AMPI until February 1972, when he became active with some of Parr's former assistants in a rival dairy co-op group in Arkansas, the Southern Milk Producers Association.<sup>52</sup> Morris says that AMPI was attempting to squelch the revolt and absorb the rival group and that Butterbrodt met with him in Chicago on April 11, 1972, to try to work out their differences. In the midst of the conversation, Butterbrodt referred to the antitrust suit and told Morris of AMPI's efforts to handle it. Butterbrodt allegedly told Morris that AMPI representatives<sup>53</sup> had gone to Washington to see what could be done about the suit, and spent a couple of days speaking to people at the Justice Department and elsewhere, but no one would enter into a "meaningful conversation" with them. Morris testified that Butterbrodt told him:

[F]inally after making the rounds, someone suggested that the real way to solve their problem would be to talk to Mr. Kalmbach.

\* \* \* \* \*

[T]hey met with Mr. Kalmbach and came to an agreement that AMPI would pay \$300,000 to Kalmbach, and that as a result of that, the antitrust suit against AMPI would go away.

\* \* \* \* \*

The AMPI representatives came back home with the understanding that Mr. Kalmbach would direct them where or to whom to send the money, and before that could be accomplished \* \* \* the ITT thing hit the press, and Mr. Kalmbach sent word to AMPI that he did not want their money.<sup>54</sup>

Although Butterbrodt does not recall telling these details to Morris, he concedes that he may have discussed contributions with Morris at their meeting.<sup>55</sup> Furthermore, he says that he knew that Mehren and others had met with Kalmbach and Connally, and that they had discussed pre-April 7 contributions with Kalmbach.<sup>56</sup>

There is evidence, then, that AMPI's top officials sought, through Kalmbach, high-level White House assistance on the antitrust suit in exchange for a substantial and secret pre-April 7 contribution. This time Kalmbach—after nearly 3 years of hearing of milk producer pledges and contributions linked to favorable decisions by the administration—backed away. At the time of the ITT scandal and in view of the damaging publicity in connection with the previous year's dairy contributions and price support activities, Kalmbach decided to try and prevent another milk producers' scandal.

As a result, no further dairymen contributions were made to the

<sup>52</sup> Morris, 16 *Hearings* 7439, 7445.

<sup>53</sup> Morris said that he thinks Butterbrodt told him that Mehren, he and perhaps Nelson had gone to Washington and then met with Kalmbach, but he may just have assumed that Butterbrodt personally was involved and that Butterbrodt's reference to "we" may have been merely a reference to AMPI's representatives other than himself. Morris, 16 *Hearings* 7445-46. There is no evidence that Butterbrodt personally participated in conversations with Kalmbach.

<sup>54</sup> Morris, 16 *Hearings* 7445-46.

<sup>55</sup> Butterbrodt, 17 *Hearings* 7672-73.

<sup>56</sup> Butterbrodt, 17 *Hearings* 7644-45.



President's campaign for several months, and there is no evidence that Kalmbach or any White House official intervened in the antitrust suit thereafter.<sup>57</sup>

## VII. MILK PRODUCER CONTRIBUTIONS TO THE PRESIDENT'S CAMPAIGN AFTER APRIL 7, 1972

For the duration of 1972, the milk producers reportedly contributed another \$95,000 to the President's campaign, primarily due to the solicitation efforts of Lee Nunn and Clayton Yeutter of FCRP and Jacobsen and Connally on behalf of Democrats for Nixon. In addition, just prior to the election, Lee Nunn of FCRP solicited from CTAPE a Presidential contribution of as much as \$650,000 or \$750,000, allegedly in satisfaction of the earlier dairy commitment dating back at least to March 1971. In late October 1972, CTAPE contributed approximately \$350,000 to Republican congressional committees, and at about the same time, these committees transferred about \$200,000 to the RNC and then to FCRP.

While there had been transfers totaling \$650,000 from RNC committees to the congressional committees some weeks before, and there is some evidence that the \$200,000 was in repayment of those earlier transfers, a number of the RNC, senatorial, and congressional committee officials involved were not aware of any relation between the transactions. There is also other evidence that the movement of the dairy money to FCRP was part of a plan arranged by Nunn and possibly Stans to divert the CTAPE congressional contributions to the President's campaign. There is no evidence that any other officials connected with the congressional, senatorial, or Republican national committees knew the circumstances of the solicitation of the CTAPE contribution or considered the contribution related to any dairy commitment to the President's campaign or to governmental action favorable to the dairy industry.

A significant result of the manner in which these dairy trust contributions were made—particularly those to FCRP made after the last preelection reporting date and the CTAPE contributions routed through the congressional committees—was that an additional link between dairymen and the President's campaign was kept from public view prior to the election.

### A. \$95,000 FROM ADEPT AND SPACE

Late in the summer of 1972, leaders of both DI and Mid-Am met with Connally, then head of Democrats for Nixon, and apparently discussed some of their problems with the administration and committed \$50,000 to his organization, which was contributed almost immediately thereafter. Meanwhile, FCRP officials Lee Nunn and Clayton Yeutter, who had taken over certain of Kalmbach's solicitation responsibilities, were arranging for another \$45,000 to be contributed by the dairy trusts of the two co-ops just prior to November 7, after the final preelection reporting period had ended.

<sup>57</sup> In fact, there is evidence that later in 1972 at least one White House official viewed the progress of the antitrust suit as a "positive" offset to adverse publicity over the "milk deal" the year before. See section VII.B, *infra*.

## 1. MEETING WITH CONNALLY AND \$50,000 FOR DEMOCRATS FOR NIXON

In an August 7, 1972, CRP memo, there appears a list of the sub-groups of the "agribusiness" industry covered by the President's campaign fundraising effort with the following notation: "Milk Producers—Lee Nunn and John Connally handling."<sup>58</sup>

Five days earlier, Connally, who headed Democrats for Nixon, had met with a number of dairy co-op officials. Connally's log for August 2, 1972, lists a meeting with Morgan and Westwater of DI, Gene Baldi, general manager of Mid-Am, Hanman also of Mid-Am, and Mehren of AMPI.<sup>59</sup> Mehren did not attend, but Parr, by that time employed by DI, did.<sup>60</sup>

One of the principal outcomes of the meeting was the making of additional milk producer contributions to Democrats for Nixon. Jacobsen, who was assisting Connally in the Democrats for Nixon organization, says that the Mid-Am and DI officials contacted him and said that they wanted to make a contribution to Democrats for Nixon and to FCRP but that they wanted to talk to Connally first.<sup>61</sup> Jacobsen informed Lee Nunn of FCRP<sup>62</sup> and arranged the meeting with Connally—as he had done on a number of occasions earlier in the year in connection with fundraising meetings between the milk producers and Kalmbach.

Officials of the two co-ops had discussed the matter of contributions to Democrats for Nixon and came to Washington to meet Connally ready to announce their commitment of \$25,000 each.<sup>63</sup> In fact, Westwater says that he brought the \$25,000 SPACE check with him to Washington.<sup>64</sup>

At the meeting, the dairy officials told Connally of what they considered the negative attitude of the administration toward dairy co-ops on a number of matters, including possible antitrust violations.<sup>65</sup> They say they also discussed contributions to the President's campaign. Hanman says that although he had not intended to announce a commitment for a contribution, he and the DI representatives did so at Connally's request:

Mr. HANMAN. . . . I think Mr. Connally asked us if we were going to make a commitment, a contribution. He indicated that he was going to have a party in Texas somewhere where the President would be there. He would like for some of us people to be there.

Senator MONROYA. With the money?

Mr. HANMAN. No, he was inviting only those people, I think who were going to make some contributions. And as I recall as the way the meeting developed, that's how we got to the \$25,000. It was an opportunity to go to this dinner and meet the President and meet some of his supporters. And I believe that's about the way it developed.<sup>66</sup>

In direct contradiction to Hanman's sworn testimony, Connally testified that although there may have been a "passing reference" to

<sup>58</sup> CRP memo, 17 *Hearings* 8164-66.

<sup>59</sup> Connally Exhibit 3, 14 *Hearings* 6094.

<sup>60</sup> See Connally, 14 *Hearings* 6082.

<sup>61</sup> Jacobsen, 15 *Hearings* 6472, 6473.

<sup>62</sup> Jacobsen, 15 *Hearings* 6476.

<sup>63</sup> See Hanman, 14 *Hearings* 5892-93, 5895.

<sup>64</sup> Westwater interview, *supra*.

<sup>65</sup> Hanman, 14 *Hearings* 5891.

<sup>66</sup> Hanman, 14 *Hearings* 5893.

milk producers support, "the meeting in no way on August 2 was a meeting that dealt with political contributions."

Mr. WEITZ. You are certain of that?

Mr. CONNALLY. I am certain of that.<sup>67</sup>

Connally testified that, in fact, he did not even know of the two \$25,000 contributions.<sup>68</sup> However, aside from the testimony of Hanman, the records of SPACE (DI's trust) indicate that it contributed \$25,000 to the National Democrats for Nixon on or shortly after August 2—the day of the Connally meeting. In fact, Westwater says Connally personally accepted the \$25,000 SPACE check sometime shortly after the meeting<sup>69</sup>—despite Connally's testimony before the committee that at about the same time he refused to use the \$10,000 cash for Democrats for Nixon which Lilly of AMPI had in 1971 given to Jacobsen for Connally's designation for political campaigns.<sup>70</sup>

On September 19, ADEPT (Mid-Am's trust) contributed \$25,000—\$6,000 to the national organization and \$19,000 to four State Democrats for Nixon committees.<sup>71</sup> Connally testified that he was told only of the contributions to the national organization—\$25,000 from SPACE and \$6,000 from ADEPT.<sup>72</sup> However, Hanman testified that at the August 2 meeting Connally solicited and Hanman committed \$25,000 from ADEPT (in addition to the \$25,000 SPACE commitment), and Jacobsen has testified that he thinks he informed Connally of both \$25,000 contributions when they were made.<sup>73</sup>

Connally also denied tying invitations to a September reception at his ranch he was planning for the President to additional contributions: "No invitation to that meeting was tied to a contribution of one thin dime."<sup>74</sup> To the contrary, Hanman testified that Connally raised the subject of the reception in connection with contributions and the dairy officials responded with their commitments. Moreover, the SPACE and ADEPT contributions were completed by September 19 and representatives of both co-ops attended the reception several days later.<sup>75</sup>

## 2. \$45,000 TO FCRP

On May 1, 1972, Jacobsen and two DI officials, Ben Morgan (who had replaced Paul Alagia the previous year as executive director) and Joseph Westwater, flew to California and met with Kalmbach.<sup>76</sup> Jacobsen says that Morgan and Westwater had told him that they wanted to make a contribution to the President's campaign, and he made an appointment for them with Kalmbach.<sup>77</sup> While it is not clear whether political contributions were discussed at the meeting with Kalmbach,<sup>78</sup> it appears that no effort was made to collect any further contributions to FCRP from ADEPT or SPACE until several months

<sup>67</sup> Connally, 14 *Hearings* 6085.

<sup>68</sup> *Ibid.*

<sup>69</sup> See Westwater interview, *supra*.

<sup>70</sup> See Section V.A., *supra*.

<sup>71</sup> See Keema affidavit, *supra*.

<sup>72</sup> Connally, 14 *Hearings* 6084–85, 6085–86.

<sup>73</sup> Hanman, 14 *Hearings* 5893; Jacobsen, 15 *Hearings* 6475.

<sup>74</sup> See Westwater interview, *supra*.

<sup>75</sup> Hanman, 14 *Hearings* 5893, 5896–97. The reception was held on September 22, 1972.

<sup>76</sup> Those attending the meeting agree it took place in the spring or early summer of 1972. Westwater says in a staff interview that it was in May, and Kalmbach's logs, in the Committee's possession, indicate that the only meeting with Jacobsen that month was on May 1.

<sup>77</sup> Jacobsen, 15 *Hearings* 6454.

<sup>78</sup> Jacobsen, 15 *Hearings* 6455; Kalmbach, 17 *Hearings* 7619.

later, when Clayton Yeutter, a former USDA official and a CRP official responsible for farm interest groups," became involved in fund-raising.

In late summer 1972 Yeutter contacted Westwater of DI and Gary Hanman of Mid-Am to solicit contributions, and each co-op's trust made a contribution just prior to the election: on October 28, SPACE contributed \$25,000 to FCRP and on November 6—the day before the election—ADEPT contributed \$4,000 to each of five State FCRP committees, for a total of \$20,000.<sup>80</sup>

Because of the timing of the contributions, they were not publicly reported until well after the election. According to Federal election laws, final preelection reports must be filed by political committees 5 days before the election covering contributions made up to 12 days before the election—in the case of the 1972 Presidential election, October 26, 1972.<sup>81</sup> Westwater said in a staff interview that, although Yeutter met with him well in advance of October 28 to discuss the contribution, Westwater delayed delivery of the check until October 28, and this may have been at Yeutter's suggestion. Westwater says he may also have discussed the matter with Gary Hanman of Mid-Am and Marion Harrison, whose firm had been retained by Mid-Am and DI.

#### B. \$200,000 TO THE PRESIDENT'S CAMPAIGN

AMPI's trust CTAPE, was also solicited for a last-minute pre-election contribution, with the ultimate result that \$200,000 of CTAPE money was furnished to the President's campaign.

After the ITT scandal and the Watergate break-in, there was increased concern among White House officials about damaging disclosures in connection with the milk case. On August 31, 1972, for example, in a memorandum to Haldeman, Ehrlichman, Colson, Clark MacGregor, Stans, and Whitaker on the progress of the Nader milk suit, Dean noted that as a result of possible depositions of ex-Secretary Hardin, Chotiner, Colson, Whitaker, and others and attempts to obtain internal White House papers, "the potential for political embarrassment during the remaining months of the campaign is high."<sup>82</sup> Dean also noted—"on the positive side" from the White House point of view—that the Justice Department antitrust suit was proceeding quickly and that, "[t]his vigorous prosecution should help call into

<sup>79</sup> See 1 *Hearings* 11, 19.

<sup>80</sup> See Keema Affidavit, *supra*. The \$25,000 from SPACE may have been used to pay for CRP campaign leaflets. In a September 6, 1972, memo from Yeutter to campaign official Fred Malek, Yeutter referred to the printing and distribution of 500,000 copies each of two agriculture campaign leaflets, "President Nixon: The Right Choice for America's Farmers" and "Nobody Bullies Butz," costing approximately \$15,000 to be paid by DI, "one of the dairy cooperatives that has been most friendly to the Administration." Yeutter memo, 17 *Hearings* 8167.

According to the memo, Stans suggested that the November Group (a public relations organization for the President's campaign) contract with the printer and that DI pay the printer directly for the pamphlets which it could then deliver to CRP as a campaign contribution in kind. Westwater says that although he did discuss the printing and the contribution with Yeutter and he later received copies of the pamphlets from Yeutter before they were distributed, he does not remember whether the contribution was to pay for the pamphlets. However, a search of the DI and SPACE files has revealed no direct expenditure to the printer.

<sup>81</sup> See 37 Fed. Reg. 11942 (1972).

<sup>82</sup> Strachan Exhibit 14, 16 *Hearings* 7511. In a staff interview, David Wilson, former Staff Assistant to the President and aide to Dean said that he had reviewed some White House "milk" documents for Dean to determine the extent the claim of executive privilege would be asserted. Although Wilson says he saw only one reference in the documents to political contributions (the Mar. 22, 1971, memo from Whitaker to the President, described in Section IV.F.3 above) he did not have access to Colson's file. As noted above Dean, who did, apparently considered the materials damaging.

question any allegations by Nader that the milk producers have influenced the administration by their political contributions."<sup>83</sup>

Despite concern at the White House over Presidential links to the milk producers, another contribution from AMPI's political committee to the President's campaign was solicited from George Mehren (AMPI's general manager) by Lee Nunn, vice chairman of the Finance Committee To Re-Elect the President, just prior to the election—to fulfill the previous commitment made in connection with the 1971 milk price support decision, according to accounts of a number of the participants in the events including Bob Lilly, who, as secretary for CTAPE, was briefed by Mehren in late October 1972 and made contemporaneous notes. Nunn asked Mehren for the balance of the commitment from AMPI that dated back to 1970 and 1971. To help meet the commitment Mehren agreed for CTAPE to contribute \$300,000 to congressional committees which according to Lilly was to go primarily for the President's reelection effort.

#### 1. NUNN-MEHREN MEETING

Lee Nunn had been involved in arranging for the milk producer contributions in 1971 and, according to the August 7, 1972, CRP memo noted above, he and Connally were "handling" the milk producers. In early August, Connally had met with Mid-Am and DI officials and obtained \$50,000 in contributions from them; Nunn apparently focused his attention on AMPI which, as he stated, "sort of control[led] what the others did."<sup>84</sup>

Nunn says that after the Republican National Convention, Stans pressed his Presidential campaign fundraisers to solicit more money to offset what Stans considered a likely campaign debt of as much as \$10 million. Nunn offered to solicit a contribution from AMPI and he thereupon contacted Marion Harrison who referred him to Jacobsen who, in turn, put him in touch with Mehren.<sup>85</sup> It should be recalled that Jacobsen had told Nunn of the desire of Mid-Am and DI to make additional contributions to the President's campaign and that Connally had, at their March 16, 1972, meeting, agreed with Mehren's suggestion to delay further dairy contributions until later in the campaign.<sup>86</sup> This contact with Mehren appears to have been part of the coordinated effort of FCRP and Democrats for Nixon to solicit the three major dairy co-ops for more money just prior to the election.

Mehren says that during the week of October 17 Jacobsen called him and arranged a meeting between him and Nunn, whom Mehren believes Jacobsen described as Kalmbach's replacement as the chief Republican fundraiser.<sup>87</sup> On Saturday morning, October 21, Nunn flew to San Antonio and met Mehren in his office.

<sup>83</sup> Strachan Exhibit 14, 16 *Hearings* 7512. Dean reported that the suit might be ready for trial by the spring of 1973. In mid-1974, pre-trial discovery proceedings were still underway—apparently not because of any less vigorous prosecution, but because of two independent factors: (1) since issues were raised in the suit about the impact of AMPI political activities on the suit itself and other governmental matters involving AMPI, pre-trial discovery became concerned with AMPI's political activities; (2) there are allegations, some of which have been substantiated in Committee testimony and staff interviews, that AMPI employees willfully destroyed company documents in the spring of 1971 and possibly early 1972 to hide certain damaging evidence from Government and other investigators. See Parr, 15 *Hearings* 6894-96; Murphey interview, Dec. 11, 1973.

<sup>84</sup> Nunn, 17 *Hearings* 7557.

<sup>85</sup> Nunn, 17 *Hearings* 7556-57; Jacobsen, 15 *Hearings* 6476-77.

<sup>86</sup> See Jacobsen, 16 *Hearings* 6476; sections VI.D and VII.A, *supra*.

<sup>87</sup> Mehren, 16 *Hearings* 7288-89. Jacobsen conceded that he talked to Nunn but denied calling Mehren. Jacobsen, 15 *Hearings* 6477.

Nunn opened the meeting by explaining that he had replaced Kalmbach at FCRP and by stating that the projected Presidential campaign debt was \$10 million, due in large part to the media expenses of the CRP media arm, the November Group.<sup>88</sup> Although Nunn does not recall requesting a specific amount from AMPI, Mehren said Nunn asked for \$650,000. Mehren says that Nunn attached to his request the following statements: "Well, it never could be *quid pro quo*, and never would be. It is correct that the President does remember his friends who helped him." According to Mehren, "that is as close to a *quid pro quo* statement as I think anybody ever came to me."<sup>89</sup>

Mehren says he told Nunn that while the Committee for TAPE had voted not to make any additional Presidential contributions but only congressional contributions, he would relay Nunn's request to the committee members and advise Nunn of their decision.<sup>90</sup> Nunn says that in view of AMPI's reluctance to contribute to the President's campaign, he made a pitch to Mehren for contributions to Republican congressional candidates, apparently deciding not to make a direct appeal to the CTAPE members to reverse the earlier vote. Nunn suggested several candidates who particularly needed funds for the remaining days of their campaigns, but Mehren was antagonistic to some of them. Nunn is not certain whether it was at this point or later that Mehren, nonetheless, told him that he would recommend that CTAPE contribute \$150,000 each to the Republican senatorial and congressional campaign committees—for the use of whatever Republican candidates the committees selected, presumably including those candidates whom Mehren opposed. But before the contributions were made, Mehren conferred first with former President Johnson and then his fellow CTAPE officials, including Bob Lilly.

## 2. L. B. J.-MEHREN MEETING

Mehren held several high posts in President Johnson's administration, including that of Assistant Secretary of Agriculture. Although Mehren did not do so often, he says he decided to meet with the former President, because he began to wonder whether his refusal to contribute to President Nixon's campaign would jeopardize the co-op. Immediately after Nunn left, Mehren flew to the LBJ Ranch and met with President Johnson on the afternoon of the 21st, pursuant to an appointment that he made immediately after Jacobsen had set up his meeting with Nunn earlier in the week.<sup>91</sup>

Mehren says he described to President Johnson his meeting with Nunn, including Nunn's reference to a large campaign debt, to which he responded incredulously, "Do you really believe that?" Mehren answered: "[You] didn't ask me what I believed. [You] asked me what Mr. Nunn had said."<sup>92</sup>

Mehren concedes that, despite his claim that he knew of no prior commitments, they discussed the very subject of dairy co-op commit-

<sup>88</sup> Nunn, 17 *Hearings* 7556-57; Mehren, 16 *Hearings* 7294, 7296. Mehren says Nunn told him they were already \$3½ million in debt and would reach a \$10 million debt by the end of the campaign. Mehren 16 *Hearings* 7296. The campaign ended with a several million dollar surplus.

<sup>89</sup> Mehren, 16 *Hearings* 7261.

<sup>90</sup> Mehren, 16 *Hearings* 7290, 7297. See Mehren Exhibit 3, 16 *Hearings* 7353.

<sup>91</sup> Mehren, 16 *Hearings* 7289-90.

<sup>92</sup> Mehren, 16 *Hearings* 7297.

ments to President Nixon's campaign. Mehren says that when he raised this subject with Johnson, the latter's advice was that: "If there be a commitment, he considered it our obligation, not mine personally, the TAPE obligation and we should meet it . . ." <sup>93</sup> Mehren attempted to explain how he came to discuss with President Johnson the subject of supposedly non-existent commitments:

I had begun to see a sequence . . . of Jacobsen, Jacobsen, and on a peripheral basis, at least, Nelson. I kept saying to myself, why, why, why. After the Kalmbach matters, why would Jacobsen be so persistent in this? . . . [For] some reason or other these people found it necessary to try to get dairy money into the Republican campaign. <sup>94</sup>

As a result of their meeting, Mehren says that he, at President Johnson's suggestion, agreed that CTAPE should make additional congressional contributions and that the trust should balance its total contributions for the year to both parties. Mehren says that the former President also noted that these congressional contributions could benefit the Presidential campaigns (without further linking CTAPE to the Presidential campaign) by being used to pay for the expenses of campaign events attended by both congressional and Presidential candidates. <sup>95</sup> Mehren says that subsequently he conferred with his CTAPE officials and obtained their approval for that approach.

One of those with whom Mehren conferred was Lilly, Secretary of CTAPE, who testified to one significant additional detail—that the plan also included the diversion of some of the milk contributions from the congressional races directly to the President's campaign effort. Because of that, Lilly says that he objected. His account of the Mehren meetings varies in some important respects from Mehren's and Nunn's.

### 3. LILLY-MEHREN MEETING

On October 23, 2 days after his meetings with Nunn and the former President, Mehren met with Bob Lilly, and related to him the substance of the two meetings. <sup>96</sup> According to Lilly's contemporaneous notes, <sup>97</sup> there were several key items omitted by Mehren and Nunn in their testimony which indicate that the contributions solicited—and finally made—were expressly for the President's campaign in satisfaction of the prior commitment made for the 1971 price support increase.

As testified to by Lilly before the Select Committee on November 16, 1973, Nunn asked Mehren to contribute \$750,000 for the "obligation for the \* \* \* 1971 price support" decision, and he suggested several alternatives: \$750,000 to Democrats for Nixon, or the Committee To Re-Elect the President, or \$325,000 each to the Republican congressional and the Republican senatorial campaign committees. <sup>98</sup> To Mehren's account of his meeting with President Johnson, Lilly added the significant element that Mehren told him he had gone to see Johnson "to discuss the commitment of \$750,000 . . . [t]o the Republican Party from a carry-over from 1971" and that it was in that context

<sup>93</sup> *Ibid.*

<sup>94</sup> Mehren, 16 *Hearings* 7298.

<sup>95</sup> Mehren, 16 *Hearings* 7299.

<sup>96</sup> Lilly, 14 *Hearings* 6125-26; see Mehren, 16 *Hearings* 7300.

<sup>97</sup> See Weitz Affidavit, Exhibit A, 14 *Hearings* 6223-25.

<sup>98</sup> Lilly, 14 *Hearings* 6126.

that the former President responded: "If you made the commitment, well then, fulfill it and carry it out, regardless of how hard that it might hurt."<sup>99</sup>

On the question of commitments, Lilly stated that he was told by Mehren that President Johnson discussed a \$250,000 milk producer commitment to him, presumably in the 1964 campaign, which he wanted fulfilled. President Johnson allegedly indicated a detailed knowledge of the AMPI producers' checkoff system and told Mehren the commitment could be met by means of deductions from producers' checks.<sup>1</sup> Mehren acknowledged that President Johnson discussed the earlier commitment but denied that the former President either considered it an outstanding obligation or mentioned any system of raising moneys by a checkoff of dairy producers to meet that prior commitment.<sup>2</sup>

Although Lilly testified that he could not explain the discrepancy between the \$750,000 Nunn allegedly requested for Democrats for Nixon or FCRP, versus the total of \$650,000 Nunn requested for the congressional committees,<sup>3</sup> other evidence in the committee's possession supports the conclusion that the \$750,000 and \$650,000 figures were *both* related to the prior commitment for the 1971 milk decision.

It should be recalled that in February 1972, Strachan reported to Haldeman that Kalmbach was making arrangements for the milk producers to contribute the remaining \$750,000 to reach the modified commitment of \$1 million.<sup>4</sup> Due to the ITT scandal, further contributions were delayed until just prior to the election. By the time of the Nunn-Mehren meeting, an additional \$50,000 had recently come in from the trusts of the other two co-ops (ADEPT and SPACE) to Democrats for Nixon, and a like amount was expected from them for FCRP.<sup>5</sup> Thus, consistent with Lilly's notes, \$650,000 of the \$750,000 commitment was still needed to enable the milk producers to meet their obligation which had originated a year earlier in connection with the 1971 milk price support decision.

Instead of the \$650,000, a total of \$300,000 was contributed—the same amount that, according to Lilly, was proposed by AMPI for the President's campaign just prior to April 7, 1972, in connection with the antitrust suit. The public records of CTAPE show it going to Republican congressional committees; there is evidence that, in fact, an FCRP official diverted most of that money through the committees on to the Finance Committee To Re-Elect the President.

#### 4. \$350,000 TO REPUBLICAN CONGRESSIONAL COMMITTEES—ALLEGED \$200,000 PASSTHROUGH TO FCRP

After conferring with Nunn, President Johnson, and Lilly, Mehren says he decided to have CTAPE make a substantial contribution to the Republican congressional committees and communicated his decision to Nunn and apparently Lilly.<sup>6</sup> However, Lilly understood that the October 1972 contributions to the Republican congressional com-

<sup>99</sup> Lilly, 14 *Hearings* 6180.

<sup>1</sup> Lilly, 14 *Hearings* 6180-81.

<sup>2</sup> Mehren, 16 *Hearings* 7279, 7336-37.

<sup>3</sup> Lilly, 14 *Hearings* 6126.

<sup>4</sup> See Strachan exhibit 12, 16 *Hearings* 7504; section VI.C. *supra*.

<sup>5</sup> Another \$45,000 was contributed by SPACE and ADEPT to FCRP within the next 2 weeks. See Section VII.A., *supra*.

<sup>6</sup> See Mehren, 16 *Hearings* 7300.



mittees went instead to the President's campaign.<sup>7</sup> Although both Mehren and Nunn deny it, other evidence in the possession of the committee supports Lilly's account and indicates that the diversion of most of the milk money to FCRP was done with the tacit, if not express, approval of Mehren and was contemplated from the inception of the transaction by Nunn.

### *a. Milk Producers' Version*

According to its records, the committee for TAPE decided on October 11, 1972 (10 days before the Nunn-Mehren meeting), that no further contributions were to be made to Presidential candidates and that, instead, \$25,000 would be contributed to each of the Republican and Democratic senatorial and congressional campaign committees, for a total of \$100,000.<sup>8</sup> On October 17, the two Democratic contributions were made, but no action was taken on the Republican contributions until after Mehren met with Nunn. Thereafter, on October 27, 1972, CTAPE made the following contributions: \$150,000 and \$27,500 (in two separate checks) to the National Republican Senatorial Committee, and \$150,000 and \$25,000 (also in two separate checks) to the National Republican Congressional Committee, for a total of \$352,500.<sup>9</sup>

Lilly says that, as Secretary of CTAPE, he transmitted nearly all CTAPE contributions, including the two \$25,000 contributions to the Democratic congressional committees on October 17. Normally, he would have done so for the \$150,000 checks to the Republican committees, too. However, Lilly says that because the anticipated diversion of some or all of the additional \$300,000 to the President's campaign was inconsistent with the policy adopted on October 11 by the committee for TAPE not to make any additional Presidential contributions, Lilly refused to become involved in forwarding the \$300,000 in contributions.<sup>10</sup>

Accordingly, Lilly sent only the smaller checks (\$25,000 and \$27,500) to the Republican congressional and senatorial campaign committees while on the very same day, October 27, Mehren transmitted the \$150,000 checks, together with his own cover letter, to the same two committees.<sup>11</sup> Mehren was unable to explain the reason for the separate transmittals.<sup>12</sup>

About a week after the contributions were sent, Lilly engaged in what he termed a "heated discussion" about the contributions with Senator Dole who at that time was chairman of the Republican National Committee. Lilly says the Senator called him and indicated that he was very upset that the money was of no use to Republican Senators because it had come in too late to be of any use in their cam-

<sup>7</sup> Lilly 14 *Hearings* 6128; Lilly affidavit, 14 *Hearings* 6218-20. In November 1973 when Lilly testified to this effect, neither the Select Committee nor its staff had spoken to any of the other participants in the matter and had not yet obtained the documentary evidence relating to the disposition of the money by the Republican congressional committees and RNC, which is consistent with Lilly's account.

<sup>8</sup> See Mehren, 16 *Hearings* 7300.

<sup>9</sup> On October 27, CTAPE also contributed \$62,500 to the Democratic congressional campaign committee and \$47,000 to the Democratic senatorial campaign committee.

<sup>10</sup> See Lilly, 14 *Hearings* 6128; Lilly affidavit, 14 *Hearings* 6218-20.

<sup>11</sup> See Mehren exhibits 4, 5, 6 and 7, 16 *Hearings* 7354-65. The check to the senatorial committee was for \$27,500, reflecting an additional \$2,500 earmarked for a Republican senatorial candidate. Although the Mehren letters were dated October 24, the \$150,000 checks and the receipts were dated October 27, the date of Lilly's transmittal letters and checks. Lilly's secretary, Annette Tomasini, said in a staff interview that it was unusual not to combine the checks to the same committee on the same day.

<sup>12</sup> Mehren, 16 *Hearings* 7301-02, 7305-06.

paigns. Although it was not expressly stated, Lilly believes Dole "had some inkling in his mind \* \* \* that the money might not be available for senatorial candidates."<sup>13</sup>

The records of the Republican committees indicate that soon after the CTAPE money was received the following transfers were made from the congressional committees to the RNC and to FCRP: (1) On October 30, the National Republican Senatorial Committee transferred \$65,000 to an arm of the RNC, the Republican Campaign Committee (RCC), and on November 7, another \$55,000 to RCC, for a total of \$120,000;<sup>14</sup> (2) on October 31, the National Republican Congressional Committee transferred \$95,000 to the RCC, and on November 3, another \$6,000 for a total of \$101,000;<sup>15</sup> on November 7 (the day the four transfers were completed), a financial arm of the RNC (the Republican National Finance Committee—RNFC) transferred \$100,000 to FCRP, and on November 13 the RCC transferred another \$100,000 to FCRP.<sup>16</sup> Thus, within that 2-week period just before and after the election, the two congressional committees received \$352,500 from CTAPE and transferred \$221,000 to RNC committees which, in turn, forwarded \$200,000 to FCRP.

Although Mehren denies knowing or approving of such a scheme, he does concede that he told Nunn that the substantial additional contributions to the Republicans could be used to help in the Presidential campaign, and that he made no such representation to Democratic fundraisers with respect to CTAPE contributions to Democratic congressional committees in October 1972.<sup>17</sup>

Mehren says that the additional \$300,000 was not part of an agreement with Nunn but reflected the desire by the Committee for TAPE merely to have the contributions to Republican and to Democratic candidates at all levels equal for the 1972 calendar year.<sup>18</sup> However, the prior contribution practices of the trust and the amount of the October 1972 contributions do not support Mehren's explanation. Over the years, AMPI's trust had contributed substantially more to Democratic congressional candidates than to Republicans, and as of October 11, the Committee for TAPE had apparently been content to contribute an additional \$50,000 to each side of the aisle, leaving total Democratic contributions for the year approximately two and one-half times as great as those to Republicans. There the matter stood until after Nunn solicited Mehren who then instructed Lilly to make additional contributions to both sides and, apparently, for the first time, authorized the added \$300,000 to Republicans. Had Mehren wanted only to equalize total contributions to all Republicans and all Democratic candidates for 1972,<sup>19</sup> he could have accomplished this with an additional \$170,000 to Republicans alone.<sup>20</sup> Instead, he authorized \$300,000 more (for a total of \$352,500), and \$109,500 to the Democrats,

<sup>13</sup> Lilly, 14 *Hearings* 6128.

<sup>14</sup> Clancy exhibits 1 and 2, 16 *Hearings* 7414–15.

<sup>15</sup> Odell exhibit 1, 16 *Hearings* 7432. The committee records show that three checks were paid by the congressional committee to RCC: \$95,000 on October 31, \$6,000 on November 3, and \$2,000 on November 20. However, the \$2,000 transfer appears to have been unrelated to the CTAPE contribution.

<sup>16</sup> See Nunn, 17 *Hearings* 7568; Odell exhibit 2, 16 *Hearings* 7434.

<sup>17</sup> Mehren, 16 *Hearings* 7300, 7303–05, 7348. Although Mehren and several AMPI board members met with Senator McGovern in August, 1972 and the Senator asked them for their help, there is no evidence of any contributions directly or indirectly by AMPI or the other dairy co-ops or their political arms to Senator McGovern's 1972 Presidential campaign. See Van Dyk, 16 *Hearings* 7007, 7009–10.

<sup>18</sup> See Mehren, 16 *Hearings* 7299.

<sup>19</sup> *Ibid.*

<sup>20</sup> See Lilly, 14 *Hearings* 6129–31.

making the Republican contributions greater than the Democratic total for the year.<sup>21</sup> Therefore, Mehren more than balanced earlier contributions to the Democrats in an effort to give a bipartisan appearance to the substantial Republican contribution solicited by Nunn.

What's more, two witnesses have testified that Mehren knew that the Republican congressional contributions were going in large part to the President's campaign. Nelson says that Mehren told him that, contrary to all public statements by Mehren and the TAPE and CTAPE reports, some CTAPE money was contributed to the President's campaign in 1972.<sup>22</sup> As indicated above, Lilly says Mehren told him at the time of the transaction that the money was solicited and contributed in satisfaction of the prior commitment to the President's campaign for the 1971 price support increase.

Like Mehren, Nunn denies any scheme to funnel the CTAPE money to the President's campaign. Nunn asserted that the congressional committee transfers represented repayments of earlier loans from the RNC to the congressional committees, discussed below.

#### *b. Prior RNC Transfers to Congressional Committees*

On February 16, 1972, Stans became chairman of the FCRP and on August 20, 1972, at the time President Nixon was nominated for re-election at the Republican National Convention, he acquired the additional responsibility of chairman of the RNC. Although Stans did not make himself available for personal interview, his attorneys, in conference with the Select Committee staff, indicated that shortly after the convention, the chairmen of the Republican senatorial and congressional campaign committees asked Stans for funds in view of their low reserves and Stans agreed to make funds available to meet current needs.

According to Edward Terrar, chairman of the National Congressional Committee, his committee had requested \$600,000 from FCRP early in 1972, but the request was turned down at the time by Stans. Terrar says that just after the Miami convention, he was told that an agreement had been reached with Stans whereby the RNC was to forego its share of the proceeds of a fundraising dinner which would be split between congressional and the senatorial committees. Terrar said that Stans also made a commitment for an additional \$200,000 to be transferred to the congressional committee, and that at the time the commitment had been mutually agreed that if the congressional committee accumulated a large cash reserve toward the end of the year, \$100,000 would be refunded.

On September 26, 1972, Stans, as chairman of RNFC, sent a letter to the executive committee of the RNFC asking for authority to transfer funds to the Senate and House campaign committees.<sup>23</sup> He stated that those committees had not achieved their 1972 goals and that at that time RNFC had cash on hand above current obligations and necessary reserves. Stans asked for authority for the distribution of \$140,000 to the Congressional Campaign Committee and \$140,000 to

<sup>21</sup> *Ibid.* By year end, total CTAPE contributions to Republicans exceeded those to Democrats by about \$20,000, even though there are perennially more Democratic incumbents, particularly influential Congressional committee members from Southern and farm states, seeking re-election than Republicans.

<sup>22</sup> Deposition of Harold Nelson, p. 18, *United States v. AMPI* (March 21, 1974). See Nelson, 15 *Hearings* 6684.

<sup>23</sup> See, e.g., Odell exhibit 4, 16 *Hearings* 7436-37.

the Senatorial Campaign Committee, "this being slightly more than our share of the gala at Miami Beach." He also asked for authority to distribute additional funds to those committees, to the Boosters' Club, and to the CRP according to their needs. It should be noted that Stans' letter refers to "contributions," "subsidies" and "distributions" to the congressional committee but makes no reference to future repayment.

The transfers were effected in the next several weeks. The RNFC issued a check for \$140,000 on September 27, 1972, to the Republican Congressional Campaign Committee; a check for \$140,000 on September 27, 1972, to the Republican Senatorial Campaign Committee; and a check for \$50,000 on September 27, 1972, to the Congressional Boosters' Club. The Republican Campaign Committee (an adjunct of RNFC) issued a check for \$60,000 on September 27, 1972, to the Republican Congressional Campaign Committee and a check for \$60,000 on September 27, 1972, to the Republican Senatorial Campaign Committee. The Republican National Associates Committee (an adjunct of RNFC) issued a check for \$100,000 on October 9, 1972, to the National Republican Senatorial Committee.<sup>24</sup> Thus, the RNFC transferred a total of \$650,000 to the House and Senate Republican campaign committees from September 27 to October 9, 1972.

Stans' attorneys say that it was understood that there would be some repayment of these very substantial loans when the cash position of the House and Senate campaign committees improved, and that the transfers following the CTAPE contribution were viewed by Stans as partial repayment of the earlier transfers.

Terrar could not recall the circumstance of the dairy contribution or the subsequent transfers but stated that it was his belief that those later transfers constituted the \$100,000 refund on the basis of their earlier understanding.

According to Nunn, Stans, as chairman of both RNC and FCRP, had given his approval to the congressional committees taking the RNC share of the proceeds of a Republican National Convention dinner in August 1972, and that the several-hundred-thousand-dollar transaction was considered a loan to be repaid by the committees when they had sufficient funds.<sup>25</sup> When Nunn learned from Mehren of the intended CTAPE contributions and informed Stans, Stans reportedly told Nunn "to contact the committees and see if they can't make some repayment on the loans that we have advanced."<sup>26</sup>

Nunn thinks he then talked to the chairmen of the two congressional committees, and obtained their approval for repayment of the loans from the "rather unexpected" milk contributions.<sup>27</sup> He then instructed employees of the two committees, Lynda Clancy of the senatorial committee and Terrar of the congressional committee, to make the appropriate transfers to the RNC.

Nunn likewise says he probably told Robert Odell, Executive Director of the Republican National Finance Committee, of the incoming payments but does not remember giving him any instructions about retransfers to FCRP. Nunn believes that such a direction would have come only from Stans, who maintains he must have authorized

<sup>24</sup> See 17 *Hearings* 8169-70, 8172.

<sup>25</sup> Nunn, 17 *Hearings* 7562.

<sup>26</sup> *Ibid.*

<sup>27</sup> Nunn, 17 *Hearings* 7562, 7566.

those transfers but claims they were unrelated to the CTAPE contributions.

Other officials of the congressional and RNC committees provide a different account of the receipt of dairy money and the subsequent transfers.

*c. Other Evidence of Alleged Passthrough*

Nunn's position that the transfers from the congressional committees to the RNC represented loan repayments and not elements of a laundering scheme to FCRP is not fully supported by testimony from those committee employees involved in the transfers and by other evidence in the possession of the Select Committee. In addition, it seems to be inconsistent with other portions of Nunn's own testimony before the committee.

The reports to GAO by the Republican committees involved in the transfers—the congressional and senatorial committees, the RCC and the Republican National Finance Committee—reflect the transactions as transfers (and not loans or repayments) and do not show any loans between those committees at any time in 1972.<sup>28</sup> Moreover, the congressional committee employee who transferred most of the milk money was not made aware by Nunn or anyone else of any connection between the transfers and any loan repayments. Lynda Clancy, a Republican senatorial committee employee since 1969, testified that on or about October 26, 1972, Nunn (whom she has known since 1969 when Nunn was executive director of the senatorial committee) called and told her that the senatorial committee would be receiving the \$150,000 contribution and that there would be some "help" for the committee from that money. Specifically, he told her to retain \$30,000 and transfer the remaining \$120,000 to an RNC committee in two installments one week apart—\$65,000 on October 30 and \$55,000 on November 7. Clancy says that Nunn made no reference whatsoever to any loans or repayments in connection with the transactions.<sup>29</sup> Although Nunn claims he did not tell Clancy to transfer some of the milk money, he does acknowledge that he may have told her how much to keep from the milk money.<sup>30</sup>

Clancy says that she then called Odell, of the Republican National Finance Committee, to ask to which RNC committee she should transfer the \$120,000. Clancy testified that although she did not tell Odell who told her to issue the checks, Odell appeared to know about the transaction and instructed her to issue both checks to the RCC, which she did.<sup>31</sup>

The others involved in the senatorial committee transfer of the milk money do not quarrel with Clancy's account. Buehl Berentson, executive director of the senatorial committee, did not remember the transaction when first interviewed by the Select Committee staff. When he was told by staff members of Clancy's account, he did not contradict her and said that he had not solicited the milk money and that he must have received his instructions for the transfer from either Odell or Stans.<sup>32</sup> Clancy added that when she informed Berentson in October

<sup>28</sup> Dale Affidavit, 17 *Hearings* 7881-90.

<sup>29</sup> Clancy, 16 *Hearings* 7404-05, 7406-07.

<sup>30</sup> Nunn, 17 *Hearings* 7564.

<sup>31</sup> Clancy, 16 *Hearings* 7405, 7407, 7411.

<sup>32</sup> Berentson interview, Nov. 26, 1973.

1972 of the transaction, he replied: "At least we are getting \$30,000."<sup>33</sup>

Although he does not remember speaking to Clancy or Nunn about the transfers, Odell testified, upon hearing her account, that he, too, had no reason to dispute her testimony.<sup>34</sup> Although Nunn testified that he informed Odell of only the incoming moneys from the congressional committees and not of the transfer to FCRP, Odell testified that both sets of transfers were probably part of one transaction.<sup>35</sup> What's more, although Odell was aware of transfers from the RNC to the congressional committees in September 1972 shortly after the convention, he says—again in conflict with Nunn's account—that he has no knowledge that those September transfers constituted loans or that the transfers from the congressional committees to RCC following the CTAPE contribution were connected in any way with those or any other prior transfers.<sup>36</sup>

No one connected with the National Republican Congressional Committee has any clear recollection of the reason for the \$150,000 contribution and subsequent \$101,000 transfers—despite the fact that the contribution would have been 10 times larger than any other contribution received that year.<sup>37</sup> Jack Caulkins, executive director of the committee, said in a staff interview that Edward Terrar, then finance director of the committee, solicited the contribution, but Terrar has no recollection of soliciting it or even talking to CTAPE representatives. Sally Quinn, a committee employee for over 4 years, said in a staff interview that when the \$150,000 CTAPE contribution came in, Caulkins directed her to deposit the money and Terrar instructed her to draw the checks to RCC.<sup>38</sup> Terrar says that, although he is fairly certain it was not Nunn or Stans, someone must have told him what to do with respect to the checks and, as noted in the previous section, he explained that the transfer was to repay earlier transfers from the RNC. However, Quinn, who was responsible for preparing the committee's financial statements, says she knew of the earlier transfers from the RNC to the committee, but not of any obligations in connection with them.

Nunn's explanation for these transactions is at variance with other portions of his own testimony. It should be recalled that Nunn had solicited money from Mehren for Republican congressional candidates who, he told Mehren, were in need of money in the last days of their campaigns.<sup>39</sup> Yet, even before the money came in, he had taken steps to withdraw most of that extra \$300,000, thereby denying it to the congressional candidates he said needed it.

When presented with this contradiction, Nunn conceded that he did not know how the CTAPE contributions benefited the congressional campaigns for which they were supposedly received.<sup>40</sup> In fact, contrary to Nunn's representation, Odell testified that his committee had exceeded its fundraising budget by that time and, in any event, money coming into the senatorial committee as late in the campaign as the CTAPE money did (that is, about 1 week before the election)

<sup>33</sup> Clancy, 16 *Hearings* 7410.

<sup>34</sup> Odell, 16 *Hearings* 7419–20.

<sup>35</sup> Odell, 16 *Hearings* 7423.

<sup>36</sup> Odell, 16 *Hearings* 7431.

<sup>37</sup> See Terrar interview, November 28, 1973.

<sup>38</sup> Quinn interview, February 13, 1974.

<sup>39</sup> Nunn, 17 *Hearings* 7567.

<sup>40</sup> Nunn, 17 *Hearings* 7566–67.

could not be used judiciously by the various congressional candidates.<sup>41</sup> Neither did the RNC need the money, which, according to Stans, had accumulated a surplus of over \$500,000 before the milk money was contributed. Indeed, of those Republican entities involved in these transfers only FCRP allegedly had a projected deficit, as well as what Odell considered a "judicious" use for the unexpected last-minute CTAPE contributions—payment for the previously scheduled pre-election media campaign by the November Group.<sup>42</sup>

Finally, Nunn conceded that no transfers would have been possible without the milk producer contributions:

[T]he milk money evidently did make it possible for the two committees to make a substantial repayment of their loans . . . [I]t was truly milk money that made those repayments because, unless those contributions had been received, they couldn't have made them.<sup>43</sup>

While Nunn's explanation that the transfers constituted repayments of prior loans would account for routing the money from the congressional committees to RNC, it would not account for the subsequent transfer from RNC to FCRP or for his representations to Mehren of the financial need of Republican congressional candidates.

It appears then, that Nunn, who had shepherded the funds from the milk producers all the way to FCRP and who was one of the top finance men in the campaign involved in all facets of campaign fundraising, must have been aware, when he spoke to Mehren, of the financial condition of the various Republican entities and had anticipated the path the final dairy \$300,000 would take.

Furthermore, as was the pattern in most milk producer contributions to the President's campaign, these contributions were accomplished with a minimum of public detection before the election; all of them took place either after the last preelection reporting date or after the election, itself.<sup>44</sup>

\* \* \* \* \*

In all, contributions from the milk producers made available for the President's campaign totaled some \$632,500.<sup>45</sup> They began within weeks of the birth of the Nixon administration in 1969, when the milk producers were proposing large contributions to press their views for higher milk price supports. There is evidence that 3½ years later, at the close of the 1972 presidential campaign, they were still furnishing campaign funds to satisfy a commitment dating back at least to March 1971, at the time of the controversial price-support increase granted by the President.

<sup>41</sup> Odell, 16 *Hearings* 7428, 7430. Nunn, who referred to Odell as "fairly well experienced in political campaigns," especially in finance, disputed Odell's opinion. Nunn, 17 *Hearings* 7561-62.

<sup>42</sup> Odell, 16 *Hearings* 7428.

<sup>43</sup> Nunn, 17 *Hearings* 7573.

<sup>44</sup> As noted above, the final preelection report was due on November 2, 1972, for transactions on or before October 26. The CTAPE contributions and subsequent transfers were made thereafter.

<sup>45</sup> This figure consists of the following:

Kalmbach, 1969	\$100,000
Presidential committees 1971	237,500
FCRP and Democrats for Nixon, 1972	95,000
Additional CTAPE fund, October, 1972	200,000
Total	\$632,500

This amount does not include \$95,000 to non-Presidential Republican committees which is a part of the total presented by the White House in its White Paper.





## APPENDIX A—PERSONS AND ORGANIZATIONS

Keister Adams—USDA official.  
ADEPT—political fund of Mid-America Dairymen, Inc.  
Paul Alagia—officer of Dairymen, Inc., until April 1, 1971.  
AMPI—Associated Milk Producers, Inc., Nation's largest milk producers cooperative, headquartered in San Antonio.  
Gene Baldi—officer of Mid-America Dairymen, Inc.  
Joseph Baroody—friend of Colson and PR consultant to AMPI.  
Robert Bennett—PR consultant and friend of Colson who formed 100 committees for FCRP in 1971.  
Buehl Berentson—Executive Director, National Republican Senatorial Committee.  
S. E. T. Bogen—USDA employee.  
Doyle Bond—IRS agent.  
Albert Brisbin—former IRS official.  
John Brown—former member of White House staff.  
Martin Burns—AMPI attorney.  
John Butterbrodt—President of AMPI Board of Directors.  
J. Phil Campbell—Undersecretary of Agriculture.  
Clifford Carter—AMPI consultant (deceased).  
Henry Cashen—former White House official and aide to Colson.  
Jack Caulkins—National Republican Congressional Committee official.  
Murray Chotiner—Washington attorney for AMPI and partner of Harrison and friend of President Nixon (deceased).  
Lynda Clancy—National Republican Senatorial Committee employee.  
Sidney Cohen—USDA official.  
Marvin Collie—law partner of Connally; former AMPI attorney.  
Charles Colson—former Special Counsel to the President.  
Walker B. Comegys—former aide to McLaren.  
John B. Connally—former Treasury Secretary and head of Democrats for Nixon.  
Gerald Connell—Justice Department official.  
CTAPE—AMPI political fund after April 7, 1972.  
John Dean—former White House counsel.  
William Delano—Trustee for ADEPT.  
DI—Dairymen, Inc., Southeastern milk producers cooperative, headquartered in Louisville.  
Frank DeMarco—former law partner of Kalmbach.  
Harry Dent—former White House official.  
John Ehrlichman—former Chief Domestic Advisor to the President.  
Lynn Elrod—employee of AMPI.  
Thomas Evans—partner in President Nixon's former law firm and finance chairman in 1968 Nixon campaign.  
Carl Farrington—former USDA official (deceased).  
Jack Gleason—assistant to Harry Dent in White House in 1969 and 1970.  
H. R. Haldeman—former White House Chief of Staff.  
Gary Hanman—Executive Vice President of Mid-American Dairymen, Inc.  
Clifford Hardin—former Secretary of Agriculture.  
Marion Harrison—former Washington attorney for AMPI.  
Jane Hart—paralegal assistant of Stuart Russell.  
Erwin Heininger—AMPI attorney.  
Patrick J. Hillings—former Washington attorney for AMPI and partner of Harrison; friend of President Nixon.  
Robert O. Isham—AMPI controller and TAFE Trustee, 1969–72.  
E. Jake Jacobsen—former Austin attorney for AMPI; Johnson administration official and close friend of Connally.  
Roger Johnson—former member of White House staff.  
James Jones—former attorney for AMPI.  
Kirby Jones—former employee of Ted Van Dyk Associates.

Rueben Jones—former USDA official.  
 Herbert Kalmbach—former President's personal attorney and chief fundraiser.  
 Richard Kleindienst—former Attorney General.  
 Bob Lilly—AMPI official.  
 Joe Long—former Austin attorney for AMPI and law partner of Jacobsen.  
 Richard Lyng—former Assistant Secretary of Agriculture.  
 Richard McLaren—former Assistant Attorney General, Antitrust Division.  
 Richard Maguire—former Washington attorney for AMPI.  
 Frank Masters—attorney for AMPI.  
 Anthony Mathis—former USDA official.  
 George Mehren—General Manager of AMPI, January 12, 1972-present.  
 Mid-AM—Mid-America Dairymen, Inc., Midwest milk producers cooperative, headquartered in Springfield, Mo.  
 Ben Morgan—officer of Dairymen, Inc.  
 Dwight Morris—former secretary of AMPI.  
 John Moser—former DI president.  
 James Mueller—Trustee for SPACE.  
 Harold Nelson—General Manager of AMPI, 1969–January 12, 1972.  
 Lee Nunn—Associate Finance Chairman, FCRP.  
 Robert Odell—Executive Director, Republican National Finance Committee.  
 Robert Olson—former law partner of Kalmbach.  
 Don Paarlberg—USDA Director, Agricultural Economics  
 Clarence Palmby—former Assistant Secretary of Agriculture.  
 David Parr—former AMPI official, 1969–72.  
 Henry Petersen—Assistant Attorney General, Criminal Division.  
 Robert Phinney—former IRS official.  
 W. DeVier Pierson—former Washington attorney for AMPI.  
 William Pleasant—former AMPI chauffeur.  
 William Powell—President of Mid-Am.  
 Sally Quinn—National Republican Congressional Committee employee.  
 Baddia Rashid—Justice Department official.  
 Don Rice—former Assistant Director of OMB.  
 Joseph Rose—former house counsel for AMPI, April–September 1973.  
 Stuart Russell—former Oklahoma City attorney for AMPI.  
 John Sarbaugh—Justice Department official.  
 Rebecca Schneiderman—Justice Department attorney.  
 Milton Semer—former Washington attorney for AMPI and law partner of Jacobsen.  
 George Shultz—former Director, OMB.  
 Hugh Sloan—former FCRP Treasurer.  
 SPACE—political fund of DI.  
 Maurice Stans—former Secretary of Commerce and FCRP chairman.  
 Marvin Stetler—former president of Citizens National Bank of Austin.  
 Gordon Strachan—former assistant to Haldeman.  
 TAPE—political fund of AMPI until April 7, 1972.  
 Edward Terrar—former National Republican Congressional Committee official.  
 Ted Van Dyk—former consultant for AMPI.  
 Wagner and Baroody—former PR consultant firm for AMPI.  
 Johnnie Walters—former IRS commissioner.  
 George Webster—Washington attorney and chairman of Republican fundraising committees.  
 Joseph Westwater—employee of DI.  
 John Whitaker—former assistant to Ehrlichman for agriculture.  
 Bruce Wilson—Justice Department official.  
 David Wilson—former member of the White House staff and assistant to Dean.  
 Rose Mary Woods—President's secretary.

## APPENDIX B—MILK FUND—CHRONOLOGY

Date	Milk producer activity	Government activity	Contribution activity
1967.....	MPI organized.....		
1968.....	DI and Mid-Am organized.....		
1969:			
Jan. 14.....			Stans asks Kalmbach to act as trustee for 1968 campaign surplus funds.
February-March.....	TAPE and SPACE organized.....		
Mar. 21.....	MPI officials meet with Semer for first time.		
Mar. 25.....	Semer contacts Gleason re: milk producers.		Kalmbach diary entry—"M H Stans Seamer (sic) \$100,000."
Apr. 2.....			Kalmbach diary entry—"Milton Seamer (sic)—Atty. in Wash. D.C. \$100,000 Milk Producers Assn."
Apr. 3.....	Semer meets with Kalmbach in Washington.		
May 7.....	Semer meets with Kalmbach in Washington.		
June 13.....			Kalmbach diary entry—"MHS Semer (Objectives 100 250)."
June 30-July 3.....			Kalmbach diary entry—"MHS Semer 100-250 12/31."
July 9.....			Semer, Jacobsen, Nelson and Parr meet in Dallas to discuss \$100,000 for Kalmbach.
July 10.....	Semer meets with Kalmbach in Newport Beach, Calif.		
July.....			Stetler gathers \$100,000 cash Kalmbach reports to Haldeman re: expected milk producer contribution.
Aug. 1.....			Lilly receives \$100,000 cash from TAPE account from Stetler in Austin and delivers it to Semer in Dallas.
Aug. 2.....			Semer delivers \$100,000 cash to Kalmbach in Newport Beach; reiterates three "objectives."
			Kalmbach diary entry—"1" Milt & clients to meet with Harry Dent & Jack Gleason. 2. Objectives Milt's clients."
Post-Aug. 2.....			Kalmbach informs Haldeman and other White House officials of \$100,000 payment.
Aug. 4-10.....			Kalmbach diary entry—"Ehrlichman * * * 4. Semer. Tony Ulasewicz."
Aug. 11.....		Ehrlichman approves of White House meetings with milk producers.	
Aug. 19.....	Nelson, Parr and Semer meet with Harry Dent and invite President to dairy meeting.		
October.....	MPI and other co-ops merge to form AMPI.		
Nov. 3.....		Colson joins White House staff as Special Counsel to the President.	
Dec. 8.....	Nelson, Isham and Pierson meet and arrange \$100,000 recoupment.		
Dec. 17.....	Lilly borrows \$100,000 and pays it to TAPE.		
Dec. 17.....	Lilly receives several hundred thousand dollars from AMPI attorneys and consultants for repayment of \$100,000 loan and for other political purposes.		

## APPENDIX B—MILK FUND—CHRONOLOGY—Continued

Date	Milk producer activity	Government activity	Contribution activity
1970	Nelson and Parr meet with Colson several times, re: dairy problems and \$2 million pledge to President's campaign.		
Jan. 1	Reeves & Harrison retained by AMPI.		
Mar. 5		USDA requests Tariff Commission study of certain dairy imports.	
Apr. 1		USDA increases milk price support level \$0.38 to \$4.66—largest increase ever at start of marketing year.	
May 13		President requests Tariff Commission investigation of certain dairy imports.	
July	ADEPT organized		
July 28-29		Tariff Commission holds hearings on certain dairy imports.	
July-August	AMPI attempts to secure President's attendance at 1970 convention.		
Sept. 4	AMPI first annual convention	President calls Nelson at convention; Hardin addresses convention and announces school milk program.	
Sept. 9		Nelson and Parr meet with the President and Colson; Colson writes briefing paper for President citing milk producers' \$2 million pledge.	
September		Tariff Commission sends recommendations on dairy import quotas to President.	
Sept. 25		USDA official recommends no increase for 1971 milk price support level.	
Oct. 1		Colson previously insisted that AMPI hire Wagner & Baroody; AMPI hires the firm as of this date.	
Nov. 19	Nelson and Harrison meet with USDA officials re: dairy import quotas.		Colson, Kalmbach, Evans, Hillings, Harrison, Nelson, and Parr meet and discuss arrangements for \$2 million contribution.
November-December			Kalmbach meets with Haldeman to discuss early fund-raising for 1972 Presidential campaign.
Dec. 16	Hillings letter to President re: dairy import quotas and \$2 million contribution to President's campaign and funding "special project."		
Post-Dec. 16		Hillings' letter forwarded to Haldeman, Ehrlichman and Colson.	
Dec. 31		President issues Proclamation setting import quotas on certain dairy products.	
1971:			
Jan. 7		Frick, of USDA, recommends no increase in 1971 milk price support level	
Jan. 11	Harrison and Hillings meet with Hardin to arrange dairy leaders meeting with President.		
Jan. 14	Harrison sends list of dairy leader invitees to Hardin.		
Jan. 26		Hardin sends list of dairy leader invitees to Haldeman.	
Feb. 1			Colson writes memo to Haldeman re: fund-raising from special interest groups.
Feb. 2			Colson writes memo to Higby re: \$100,000 milk producer contribution for RNC dinner on Mar. 24, 1971.
			Haldeman writes memo to Colson re: arrangements for milk producer "support."

## APPENDIX B—MILK FUND—CHRONOLOGY—Continued

Date	Milk producer activity	Government activity	Contribution activity
1971:			
Feb. 8			Colson writes memo to Halde- man re: arrangements for milk producer "support"; thereafter, Bennett selected to organize political com- mittees.
Feb. 10	Milk producers meet with Speaker Albert, Congressman Mills, and MacGregor re: milk price supports.		
Feb. 11		Connally becomes Secretary of the Treasury.	
Feb. 23		Antitrust Division of Justice Department begins investiga- tion of AMPI.	
Feb. 25	Jacobsen calls Connally re: milk price supports.	Chapin letter to Hardin propos- ing dairy leaders meeting with President on March 23, 1971.	
Mar. 2	Harrison confirms dairy meeting with President for Mar. 23, 1971.		
Mar. 3		CCC Board approves USDA docket recommending no in- crease in 1971 milk price support level and setting it at \$4.66 (80 percent parity); Rice of OMB writes memo to Shultz recommending no in- crease.	
Mar. 4	Jacobsen meets with Connally re: milk price supports.		
Mar. 5		Connally meets with President; President discusses milk price supports with several advisors; Rice writes another memo to Shultz and White House aides urging no in- crease in milk price supports.	
March	Connally allegedly tells Lilly in Washington airport "It's in the bag."		
Mar. 8	Chotiner leaves White House Staff and joins Reeves & Harrison.		
Mar. 9		Shultz writes memo to President re: milk price supports.	
Mar. 12		Hardin announces (1) no in- crease for 1971 milk price supports; (2) USDA cheese purchase program; and (3) Presidential request to Tariff Commission to conduct study of cheese imports.	
Mar. 13	Chotiner talks to Ehrlichman at Gridiron Club dinner re: milk price supports.		
Mar. 16		Senator Nelson introduces bill for 85 percent parity minimum for milk price supports.	
Mar. 16-23		24 bills introduced to raise min- imum milk price support level.	
Mar. 18		Ehrlichman allegedly calls Parr re: milk price supports.	Dean sends draft charter for Bennett committees to Kalmbach, DelMarco, Evans, and Mitchell.
Mar. 19	Jacobsen and Connally meet to discuss milk price supports.	Ehrlichman meets with Shultz, Hardin, and other White House aides re: milk price supports and Mar. 23 meeting.	
	Harrison writes letter to Whit- aker re: milk price supports.	Senator Humphrey introduces bill for 85 percent parity minimum for milk price sup- ports.	
Mar. 22		Campbell sends memo to Whit- aker with proposed opening remarks by President at dairy leaders meeting on Mar. 23. Campbell gives public speech defending Hardin's Mar. 12 decision.	\$10,000 in TAPE checks drawn for Republican dinner com- mittees.

## APPENDIX B—MILK FUND—CHRONOLOGY—Continued

Date	Milk producer activity	Government activity	Contribution activity
1971:			
Mar. 23:			
9:00 a.m.	Colson meets with Chotiner.		
10:15 a.m.		President calls Connally and discusses milk producers.	
10:30 a.m.		President meets with Hardin, Shultz and milk producer leaders in Cabinet Room.	
12:00 p.m.		President, Shultz and Ehrlichman meet.	
4:45 p.m.		President meets with Ehrlichman, Connally, Shultz, Hardin, Campbell, Whitaker and Rice in Oval Office and announces his decision to increase milk price supports; they discuss talking to Colson and alerting the milk producers of the decision.	
5:50 p.m.		Ehrlichman meets with Colson.	
6:00 p.m.	Colson meets with Chotiner.		
Afternoon-evening.	Chotiner calls Nelson to arrange for meeting with Kalmbach at 11:00 p.m., Mar. 24, and inform Nelson of possible milk price support increase. Jacobsen calls Connally and discusses price supports.	Campbell calls Nelson to ask if dairymen would "get off our backs" in the event of a price support increase.	Ehrlichman talks to Kalmbach to arrange 11:00 p.m. meeting with milk producers on Mar. 24.
Midnight-4:00 a.m.			Jacobsen reports to dairy leaders who allegedly discuss milk price supports and commitment of \$250,000 in "new money."
			Nelson, Parr, Lilly and Hanman fly to Louisville and meet with Alagia to raise large contributions for President's campaign.
Mar. 24			Alagia confers with Morgan, and \$25,000 in SPACE checks to Republican committees flown to Washington.
			Hanman confers with ADEPT committee members and makes commitment of \$50,000 to Republicans.
5:30 p.m.			Ehrlichman meets with Kalmbach and tells him to meet with Chotiner and Nelson at 11 p.m. to be informed of re-affirmation of \$2 million pledge.
8:00 p.m.			Republican fundraising dinner; Chotiner speaks to Kalmbach about 11 p.m. dinner; Congressman Belcher says price support increase is imminent.
11:00 p.m.			Kalmbach, Chotiner and Nelson meet in Madison Hotel; Chotiner informs Kalmbach \$2 million pledge is being re-affirmed "in view of" price support announcement to be made on Mar. 25.
Post-11:00 p.m.	Nelson tells Parr he is "completely optimistic" about price support increase.		
Mar. 25			Kalmbach meets with Ehrlichman and informs him that he received re-affirmation of \$2 million pledge.
		Hardin announces milk price support increase to \$4.93 (85.1 percent parity).	
Mar. 29	Hanman writes letter to dairy farmer stating that TAPE, ADEPT and SPACE programs "played major role" in President's decision.		

## APPENDIX B—MILK FUND—CHRONOLOGY—Continued

Date	Milk producer activity	Government activity	Contribution activity
1971:			
Mar. 30			Pierson writes opinion letter to Isham re: TAPE loan to ADEPT.
Apr. 1		Effective date of \$4.93 milk price support level.	Nelson receives 100 Bennett committee names from Harrison for contributions to President's campaign.
Apr. 8			TAPE loans \$50,000 to ADEPT. ADEPT contributes \$45,000 to a Republican committee; later, it contributes \$5,000 to another Republican committee.
Apr. 26-May 3			75 TAPE checks drawn for \$2,500 each to 75 of 100 Bennett committees; checks later voided.
Apr. 28	Jacobsen asks Lilly for \$10,000 cash for Connally.		
May 4	Lilly borrows and delivers \$10,000 cash to Jacobsen in Austin for Connally.		
May 14	Jacobsen meets with Connally in Washington.		
May 18			Dean meets with Haldeman who decides to use "milk money" for operating expenses of President's re-election campaign organization.
May 21			Strachan informs Haldeman that Kalmbach and Nunn decided not to use "milk money" for campaign organization expenses, and Haldeman agrees.
June 16			Harrison sends 25 Bennett committee names to Nelson in part "to honor a commitment."
June 29			Harrison sends 25 more Bennett committee names to Nelson.
July 8			Harrison gives Isham opinion letter that Bennett committee are legal and support President's campaign.
July 9			TAPE contributes 50 \$2,500 checks to Bennett committees.
Aug. 5			Chotiner sends rest of 100 Bennett committee names to Parr who forwards 25 to Isham, 12 to Hanman and 12 to DI.
Aug. 11		Chicago office of Antitrust Division, Justice Department, requests grand jury for AMPI investigation.	
Aug. 19			ADEPT contributes \$2,500 each to six Bennett committees.
Aug. 20			SPACE contributes \$2,500 each to 12 Bennett committees.
Aug. 26	Lilly writes to Jacobsen that possible corporate political contribution uncovered in IRS audit of MPI 1968 return.		
August			Colson borrows \$5,000 from Baroody for break-in of Ellsberg's psychiatrist's office and asks Chotiner for another \$5,000 from milk producers.
Sept. 3		President addresses AMPI convention in Chicago.	\$5,000 TAPE check delivered to Harrison.
Sept. 7			Harrison delivers \$5,000 TAPE check to Webster; Baroody later obtains \$5,000 cash from Webster.
Sept. 10		Mitchell receives McLaren recommendation for grand jury investigation of AMPI.	TAPE contributes \$62,500 to final 25 Bennett committees.

## APPENDIX B—MILK FUND—CHRONOLOGY—Continued

Date	Milk producer activity	Government activity	Contribution activity
1971:			
Sept. 11			Strachan informs Haldeman of (1) \$232,500 contributions from milk producers and of \$90,000/month commitment; (2) adverse publicity over milk producer contributions; and (3) "separate arrangement" for \$5,000 milk producer contribution for Colson-Ehrlichman "project."
Sept. 16			Strachan confirms to Haldeman that there exists separate \$5,000 arrangement with milk producers.
Sept. 24		Colson informs Haldeman of Antitrust Division investigation of AMPI.	
September		San Antonio IRS agent gathers evidence of apparent MPI corporate political contribution in 1968.	
Oct. 6		Dean reports to Strachan on Antitrust Division investigation of AMPI.	
Oct. 13	Jacobsen allegedly asks Lilly for another \$5,000 for Connally.		
Oct. 14	Jacobsen meets with Connally in Washington.		
Oct. 29		McLaren sends second request to Mitchell for grand jury investigation of AMPI.	
Nov. 3	Chotiner meets with Haldeman.		
Nov. 4		Haldeman meets with Mitchell in "political matters meeting" to discuss, among other things, "milk money" and antitrust investigation of AMPI.	
Nov. 10	Lilly allegedly delivers another \$5,000 to Jacobsen for Connally.		
Nov. 18		Mitchell meets with Kalmbach; later that same day, Mitchell meets with President and calls Connally from President's office.	
Nov. 29	Chotiner meets with Haldeman.		
Nov. 30		Mitchell rejects McLaren recommendations and permits civil antitrust investigation, only, against AMPI.	
Dec. 10		IRS agent recommends MPI 1968 contribution be referred to Justice Department for possible criminal prosecution.	
1972:			
January			Jacobsen contacts Kalmbach to arrange meeting on Jan. 14, to discuss more milk producer contributions.
Jan. 12	Mehren replaces Nelson as general manager of AMPI.		
Jan. 13			Kalmbach meets with Mitchell.
Jan. 14			Jacobsen, Nelson and Kalmbach meet in California and discuss completing \$2 million contribution.
Jan. 18			Strachan informs Haldeman of Kalmbach progress with milk producers.
Jan. 17-19		IRS Commissioner Walters requests report from Regional Commissioner Brisbin on IRS audit of MPI.	
Jan. 21			Kalmbach reports to Mitchell progress completing \$2 million milk producer contribution.
Jan. 22		Mitchell approves civil antitrust suit against AMPI but directs initiation of prefiling negotiations.	
Jan. 24		"Nader v. Butz" filed.	
Jan. 27		AMPI-Justice Department pre-filing negotiations begin.	



## APPENDIX B—MILK FUND—CHRONOLOGY—Continued

Date	Milk producer activity	Government activity	Contribution activity
1972:			
Jan. 28		McLaren gives AMPI Jan. 31, 1972, deadline to agree to consent decree.	
Jan. 31		AMPI notifies Antitrust Division that it cannot agree to consent decree by deadline.	
Feb. 1		Justice Department files civil antitrust suit against AMPI.	Strachan informs Haldeman of (1) reduced \$1 million milk producer pledge and (2) filing of antitrust suit.
		Dean briefs Ehrlichman on "Nader V. Butz."	
		IRS officials of Southwest Region meet and agree to adopt San Antonio agent's recommendation for referral of matter to Justice Department of possible criminal prosecution.	
Feb. 3			Kalmbach, Mehren, Nelson, Jacobsen, Olson and De Marco meet in California to discuss additional milk producer contributions.
Feb. 9			Haldeman scheduled to discuss milk producer contributions with Mitchell in "political matters meeting."
Feb. 15		IRS sensitive case report on audit of MPI sent to IRS national office.	Strachan informs Haldeman that Kalmbach is arranging for additional \$750,000 from milk producers by Apr. 7, 1972.
January-February	Jacobsen asks Connally about AMPI hiring Connally's former law partner for MPI IRS matter.		
Feb. 22		IRS Regional Commissioner Brisbin over-rules IRS District Director Phinney and signs memo to refer MPI matter to Justice Department for criminal prosecution.	
Feb. 24	Chotiner speaks to Mitchell about Justice Department antitrust suit against AMPI.		
Feb. 25	Harrison writes to Mehren about the Chotiner-Mitchell conversation.		
Feb. 29		IRS refers MPI matter to Criminal Division, Justice Department.	Jack Anderson publishes memo re: ITT contribution to Republican Convention.
Mar. 1			Mitchell resigns as Attorney General and becomes Chairman of CRP.
Mar. 7		Hardin executes affidavit in "Nader v. Butz" asserting that sole basis for Mar. 25, 1971, decision was strictly statutory [economic] criteria.	
Mar. 8	AMPI attorney, Collie, confers with IRS District Director Phinney re: MPI tax matter.		
Mar. 13-17	AMPI notifies IRS it will not oppose IRS finding.	IRS agent recommends audits of 1969 and 1970 MPI-AMPI returns; recommendations approved.	
Mar. 16	Connally meets with Mehren, Nelson and Jacobsen in Washington; they discuss milk producers' antitrust and tax problems and postponement of additional milk producer contributions; Connally calls Mitchell.		Kalmbach meets with Mehren, Nelson, and Jacobsen in Washington and notifies them he will not accept further milk producer contributions.
Mar. 17		Criminal Division, Justice Department, requests MPI file from IRS.	
Mar. 20		Final IRS sensitive case report on MPI audit sent to IRS national office.	
Mar. 30			Kalmbach calls Jacobsen.
Apr. 1		Effective date of 1972 milk marketing year—and continuation of \$4.93 milk price support level.	

## APPENDIX B—MILK FUND—CHRONOLOGY—Continued

Date	Milk producer activity	Government activity	Contribution activity
1972:			
Apr. 4	Isham resigns; Mehren, Nelson and Lilly meet to discuss additional pre-Apr. 7 contribution to President's campaign; \$150,000 in CTAPE checks drawn and signed by Mehren and Elrod but later voided.		Kalmbach calls Mehren and allegedly refuses additional contribution and request for "quid pro quo" in antitrust suit.
Apr. 7		IRS forwards MPI file to Justice Department. Files later misfiled by Department until 1974.	Effective date of Federal Election Campaign Act of 1971.
Apr. 11	Butterbrodt discusses antitrust suit and dairy contributions with Dwight Morris.		
Apr. 15		IRS audit of MPI 1968 return closed.	
May 1			Kalmbach and Jacobsen meet with DI officials.
June	Harrison speaks to Kleindienst re: Justice Department antitrust suit against AMPI.		
June 12		Connally resigns as Treasury Secretary.	
August			Connally heads Democrats for Nixon; Jacobsen allegedly offers \$10,000 from Lilly for Democrats for Nixon but Connally allegedly refuses.
Aug. 2	Connally meets with representatives of Mid-AM and DI who commit contributions to Democrats for Nixon.		SPACE contributes \$25,000 to Democrats for Nixon.
Aug. 7			CRP memo notes that Connally and Lee Nunn are "handling" milk producers.
Aug. 31		Dean informs Haldeman and Ehrlichman of progress of "Nader v. Butz" and Justice Department antitrust suit against AMPI.	
Sept. 19			ADEPT contributes \$25,000 to Democrats for Nixon committees.
Sept. 22			Mid-Am and DI representatives attend Democrats for Nixon campaign function for the President at Connally's ranch.
Oct. 11			CTAPE votes not to make any further Presidential contributions but to contribute \$25,000 each to Democratic and Republican congressional committees.
Oct. 21			Lee Nunn meets with Mehren in San Antonio and solicits \$650,000 more for President's campaign. Mehren meets with former President Johnson to discuss CTAPE contributions.
Oct. 23	Mehren discusses CTAPE contributions with Lilly.		
Oct. 26			Closing date for final pre-election reporting date.
Oct. 27			CTAPE contributes \$352,500 to Republican congressional committees.
Oct. 28			SPACE contributes \$25,000 to FCRP.
Oct. 30-Nov. 13			Republican congressional committees transfer \$221,000 to RNC committees which transfer \$200,000 to FCRP.
Nov. 6			ADEPT contributes \$20,000 to FCRP committees.
November		Responsibility for IRS audit of 1969 and 1970 MPI returns transferred to another IRS agent; audits never undertaken.	

Note: Subsequent events in 1973 and 1974 relating to the milk fund investigation including those related to the Select Committee's inquiry begun in September 1973, and certain disclosures by the White House, including the statements by the President and in the White Paper, have not been included in this chronology.

SELECTED DOCUMENTS

Attachment to Johnson Affidavit

## MEMORANDUM

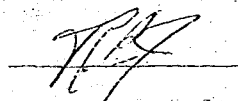
THE WHITE HOUSE

WASHINGTON

December 17, 1970

TO: H. R. HALDEMAN  
FROM: ROGER JOHNSON  
SUBJECT: Letter to the President from Pat Hillings.

Pat Hillings handed me the attached letter and asked that it be directed to the President. It concerns a matter with which both Peter Flanigan and Chuck Colson are familiar and on which they are working.

A handwritten signature, likely of J. Edgar Hoover, is written over a horizontal line.

THE WHITE HOUSE  
WASHINGTON

TO: JC

FROM: JOHN BROWN

FYI \_\_\_\_\_

COMMENT Would you  
check with E &  
Colson on whether  
there should go in  
and if so in what  
form.

## Nelson Exhibit No. 1

LAW OFFICES

## REEVES &amp; HARRISON

SUITE 500

1701 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20006

TELEPHONE 202 298-9030

TELEX 440376 CRDX

CABLE "REEVLAW"

MARION EDWIN HARRISON  
 ERNEST GENE REEVES  
 ROBERT F. SAGLE  
 MYRON DOLTER  
 JUDY A. POTTER

OF COUNSEL  
 PATRICK J. HILLINGS  
 WM. MONTGOMERY SMITH

December 16, 1970

The Honorable Richard Nixon  
 The White House  
 Washington, D. C.

Re: \$22 Tariff Commission (Milk) Recommendations  
Presidential Proclamation

Dear Mr. President:

This letter discusses a matter of some delicacy and of significant political impact.

Since January 1 my Washington partner Marion Harrison (one of your 1968 Virginia Co-Chairmen) and I have represented Associated Milk Producers, Inc. ("AMPI"). At the White House in September you privately met AMPI's two key leaders, Harold Nelson and Dave Parr. You spoke by telephone from the beach at San Clemente to Secretary Hardin and to Harold Nelson during AMPI's annual convention in Chicago Labor Day weekend. You told Harold of your intent personally to address AMPI's next annual convention (a gathering of almost 30,000 dairy farmers and their families).

AMPI has followed our advice explicitly and will do so in the future. AMPI contributed about \$135,000.00 to Republican candidates in the 1970 election. We are now working with Tom Evans and Herb Kalmbach in setting up appropriate channels for AMPI to contribute \$2 million for your re-election. AMPI also is funding a special project.

On September 21 the Tariff Commission recommended to you, after it did a study you requested in May, four specific quotas for four specific dairy products. These recommendations are well documented and by now are well known in the dairy and related industries. No Presidential Proclamation has been issued.

The problem is this. The dairy industry cannot understand why these recommendations were not implemented

very quickly. The longest the Democrats ever took to implement a Tariff Commission dairy recommendation was 16 days. On one occasion, President Johnson even imposed quotas before he received the Tariff Commission's recommendations!

The overall parity ratio is at its lowest since December 1933. Farmers generally are unhappy with the economy. You know our farmbelt losses in the election.

The Government saves money (by saving price support payments) and the farmer makes money when the recommended quotas are imposed. The products are all "evasion" products - that is, products which historically were not imported but which started to be imported only after quotas were imposed on other products.

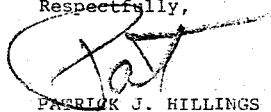
The dairy and related industries have great faith in your personal leadership. At the same time, they are shaken by the economy. The right kind of Proclamation issued quickly would dramatize your personal interest in a large segment of agriculture.

This problem is bogged down within the White House. It is a victim of the bureaucracy - the Trade Bill people, the National Security Council people, the domestic people. It has been studied and restudied. It is not moving.

We write you both as advocates and as supporters. The time is ripe politically and economically to impose the recommended quotas. Secretary Hardin, the Tariff Commission and the dairy industry all support this. All that is necessary is a simple Proclamation implementing the four specific Tariff Commission recommendations.

(We attach a more detailed Memorandum. The subject is quite interesting if you have time for it.)

Respectfully,



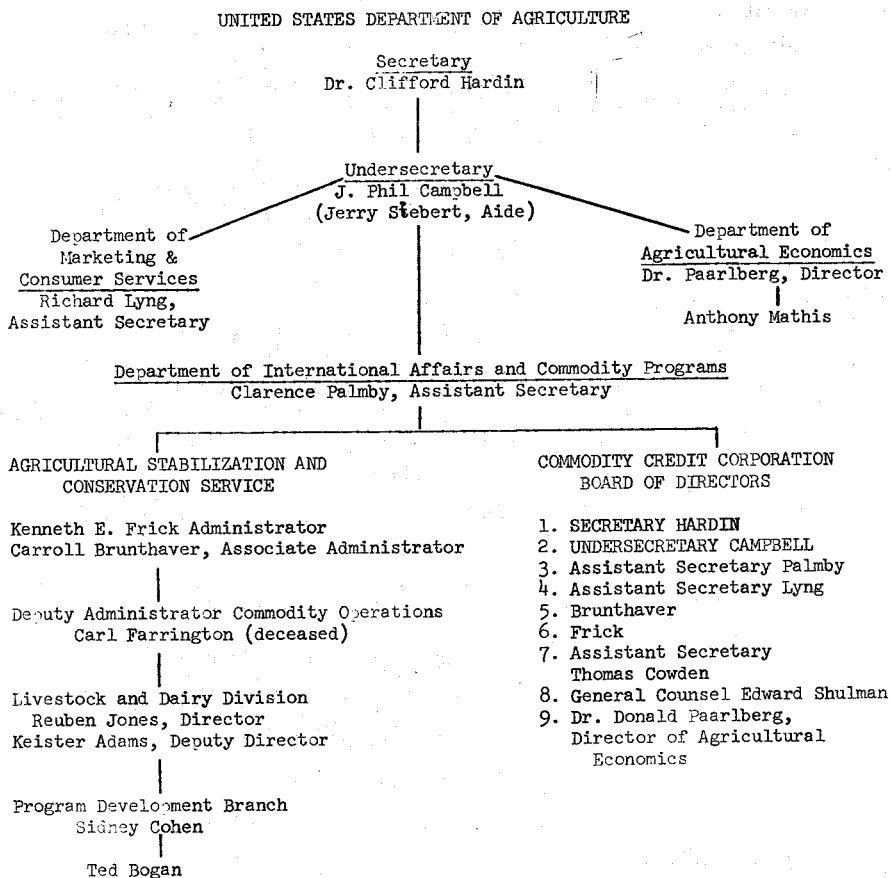
PATRICK J. HILLINGS

PJH:ek

Enclosure

## - ORGANIZATION CHART -

## 1971 MILK PRICE SUPPORT DECISION



Kalmbach Exhibit No. 4

ITINERARY/AGENDAWednesday, March 24, 1971

Depart LAX via UAL 52  
Arrive Dulles

P/U by WH auto

Hotel

The Madison  
15th & M Sts., NW  
202/483-6400

- 8:30 am  
4:15 pm
- 5:30 pm Meeting w/John Ehrlichman in his office
- 6:30 pm Meeting w/Dan Hofgren at Washington Hilton
- 8:00 pm Dinner (RFC; meeting first at Suite #P/1 - Gus Levy's name)
- 11:00 pm After-dinner meeting (to be scheduled)

Thursday, March 25, 1971

- 8:30 am Meeting in coffee shop of Madison w/Tom Evans
- 9:00 am B'fast. meeting at the Madison with John Rollins
- 11:00 am Meeting with Gordon Strachan and Bob Haldeman in Haldeman's office at the WH
- 1:00 pm Luncheon meeting in Ehrlichman's office with Ehrlichman, Milbank and George Murphy
- 3:30 pm Meeting with P/M General Blunt in the Post. Master General's Office
- 4:00 pm Meeting in Rm. 6802 of the Department of Commerce with M. Stans and other business people
- 6:00 pm At the Madison (changing for dinner)
- 7:30 pm Dinner at the WH
- 11:00 pm Back to the Madison

Friday, March 26, 1971

- 8:30 am Breakfast meeting at the Watergate with M. Stans
- 10:00 am At the WH -- probably meeting with Mr. Finch
- 12:00  
---  
3:00 pm A/F #1 leaves Andrews AFB with one stop - arrives at El Toro
- Mrs. Kalmbach to p/u

Saturday, March 27, 1971

- 10:00 am Golf at LACC w/Mark A. Soden and Don Martin

HWK/ah  
3/24/71



Strachan Exhibit No. 4

THE WHITE HOUSE

WASHINGTON

CO 140

ADMINISTRATIVELY CONFIDENTIAL

September 11, 1971

FILED  
JAN 18 1973

JAMES F. DAVEY, CSM

MEMORANDUM FOR :

H. R. HALDEMAN

FROM :

GORDON STRACHAN

G

SUBJECT :

Milk Money

Lee Nunn reports that \$232,500 has been realized. This is slightly more than one-half of the amount that should have been delivered on the commitment (\$90,000 per month).

However, a much more disturbing element has emerged. Frank Wright, a reporter for the Minneapolis Star has interviewed six of the chairmen of the front committees and Bob Bennett (the man handling all of the transactions). Bennett has told Nunn that no damaging information has been released. Kalmbach, Dean, Nunn, and Tom Evans of New York discussed this development late yesterday. No action has been taken.

It is Nunn and Sloan's opinion that Colson has established a separate agreement with the milk people in order to have cash available. I have not checked with Colson as this may be an agreement outside of my area of responsibility. If the alleged Colson agreement has your approval the matter will be dropped. If it does not you may want to re-emphasize your policy of single contact (Kalmbach) with all contributors.

Drop this matter

✓ ☒ Check Colson☐ Other

Colson - Malesky 3  
56 separately on E committed  
supposed.

EXHIBIT C

Strachan Exhibit No. 7

THE WHITE HOUSE  
WASHINGTONeyes only

September 24, 1971

MEMORANDUM FOR: H. R. HALDEMAN

FROM: CHARLES COLSON

SUBJECT: Milk Producers

For obvious reasons, I should not be involved with respect to the following. There is underway in the Justice Department at the moment an Anti-trust Division investigation of the milk producer cooperatives. Attached is the 1956 court decision exempting the milk producers from application of the Anti-trust laws. If this goes too far there will be a number of very serious adverse consequences which I would be glad to elaborate on in detail.

I do think this should be taken up at one of your meetings.  
I would like to stay out of it.

## Strachan Exhibit No. 9

THE WHITE HOUSE  
WASHINGTON

Date: 11-3-71

TO:

H.R. HALDEMAN

FROM:

GORDON STRACHAN

The Attorney General asked Jeb Magruder for an agenda for the political matters meeting tentatively scheduled for Thursday October 4 at 4:00 p.m. The AG received a copy of the attached agenda. He did not, of course, receive a copy of the talking paper, nor has he received materials on the subjects to be covered after Magruder and Strachan depart.

## TALKING PAPER FOR THE ATTORNEY GENERAL

Re: Political Matters Pending/Magruder and Strachan Present

\* \* \* \* \*

Thursday, November 4H. R. Haldeman's Office, 4 p.m.

\* \* \* \* \*

-11-

\* \* \* \* \*

15. As you probably know, the Milk Producers currently enjoy an antitrust exemption resulting from a 1956 decision by the Federal District for the District of Columbia. A report here at the White House indicates the Antitrust Division at Justice is now investigating that exemption. Another report indicates that the Washington Post has assigned four reporters full-time on the milk money project. Do I understand correctly that you have directed John Dean to review any reports that have to be filed on the Hill connected with the receipt of the milk money?

\* \* \* \* \*

A TRUE COPY

Strachan Exhibit No. 10

*Ref. Mc* 11/24/73  
 THE WHITE HOUSE  
*Hmc* WASHINGTON

Administratively Confidential

January 18, 1972

MEMORANDUM FOR:

H. R. HALDEMAN

FROM:

GORDON STRACHAN *G*

SUBJECT:

Political MattersFinances

1) Herb Kalmbach met with Messrs. Jacobsen and Nelson on January the 14th concerning the milk money. Kalmbach had a "good meeting"; the money will continue to come in, but the milk people do not want to continue to deal with Reeves & Harrison (Chotiner's firm). Kalmbach would take over this project as a special assignment. He will ask the Attorney General on January the 20th. The Attorney General approved of Kalmbach meeting with Jacobsen even though Milt Seimer is Jacobsen's law partner and Treasurer of the Muskie campaign. Kalmbach informed Colson of the meeting but would not tell Colson who asked him to see Jacobsen. Kalmbach believes someone should give all information about the milk situation to Colson. I told him Colson was no longer involved.

Recommendation:

That you inform Colson of the milk situation, and that Kalmbach be asked not to discuss the milk situation with Colson in the future.

Approve *H*Disapprove *Att & Counsel*

Comment

FILED

DEC 5 - 1973

JAMES F. DAVEY, Clerk

## Strachan Exhibit No. 11

February 1, 1972

MEMORANDUM FOR:

H.R. HALDEMAN

FROM:

GORDON STRACHAN *G*

SUBJECT:

Political Matters

-2-

c) Kalmbach is very concerned about his involvement in the milk producers situation. He believes that Jacobson and Nelson will deliver though they have cut the original 2,000 commitment back to 1,000. Kalmbach's concern centers around the recent press disclosures that link Jack Gleason and the '70 campaign election funding. Kalmbach will accept the risk of being subpoenaed by the court in connection with the Nader milk suit. The Attorney General believes Kalmbach should continue to handle the milk project, but Kalmbach wants your advice.

Recommendation:

That Kalmbach not be involved in the milk project because of the risk of disclosure.

Approve \_\_\_\_\_

Disapprove \_\_\_\_\_

Comment \_\_\_\_\_

*I'll advise w/ AG*

*AS*  
*W.A. Rumsfeld*  
*G-3 K*  
*2/3*  
*6-7 H. 10/3/72*  
*6-7 H. 1/7*

## Strachan Exhibit No. 12

*Deposition Exhibit A.*

Copy #1 of 2-1-3

*11/28/73  
Phm*

February 16, 1972

MEMORANDUM FOR:

H.R. HALDEMAN

FROM:

GORDON STRACHAN **G**

SUBJECT:

Political MattersFinances

- 4) Kalmbach is working with the milk people to increase the 233 currently banked to 1,000 by April 7.

**FILED**

DEC 5 - 1973

JAMES F. DAVEY, Clerk

*Calla Chemist*

## Attachment to Wilson Affidavit

OFFICE OF  
THE ATTORNEY GENERAL



November 30, 1971

MEMORANDUM FOR: DICK MCLAREN

PER OUR CONVERSATION I REQUEST THAT YOU  
GO THE CIVIL ROUTE.

JOHN N. MITCHELL

A handwritten signature in dark ink, appearing to read "John Mitchell", written over the printed name.

60-139-166  
FILE  
B. J. R.



## Attachment to Wilson Affidavit

To Deck Mc Laren  
I suggest that you  
get these people in  
before you file  
JH

1-22-12

Mehren Exhibit No. 1-C

LAW OFFICES  
**REEVES & HARRISON**  
 SUITE 500

1701 PENNSYLVANIA AVENUE, N. W.  
 WASHINGTON, D. C. 20008

OF COUNSEL  
 MURRAY H. CHOTINER

MARION EDWIN HARRISON  
 ERNEST GENE REEVES  
 ROBERT F. SADLE  
 MYRON SOLTER  
 CHARLES EMMET LUCY

TELEPHONE 202 298-9030  
 TELEEX 440370 CRDK  
 CABLE "REEVLAW"

February 25, 1972

Dr. George L. Mehren  
 General Manager  
 Associated Milk Producers, Inc.  
 GPM Building, 4th Floor  
 San Antonio, Texas 78216

Re: United States v AMPI  
 CA #5A 72 CA 49  
USDC, WD, Texas, San Antonio Division

Dear George:

In view of the changing of the guard, apart from Jake's reasoning, I decided, with Murray's concurrence, not to talk with the incumbent but to take the matter up anew with his successor.

Then Murray ran into John at the Agnew-Sinatra party. They had a tete-a-tete on another matter and this subject came up. The version of the facts I surmized to you by telephone is confirmed. I guessed "right".

The confirmation vote will be no earlier than February 29 and probably later next week. After that, I'll go see the new management.

By a copy of this letter I'm suggesting to Stuart that he negotiate at the working level - regional or Washington - as long as possible and as meaningfully as possible. In a week or two I'll endeavor to zero in.

Sincerely,

(Signed) MARION EDWIN HARRISON

MARION EDWIN HARRISON

MMH:j  
 cc: Stuart H. Russell, Jr.

Mehren Exhibit No. 1-B.

LAW OFFICES

REEVES & HARRISON  
SUITE 500

1701 PENNSYLVANIA AVENUE, N. W.

WASHINGTON, D. C. 20006

TELEPHONE 202 298-9030

TELEX 440376 CRDK

CABLE "REEVLAW"

OF COUNSEL  
MURRAY H. CHOTINERMARION EDWYN HARRISON  
ERNEST GENE REEVES  
ROBERT F. SAGLE  
MYRON SOLTER  
CHARLES EMMET LUCEY

February 25, 1972

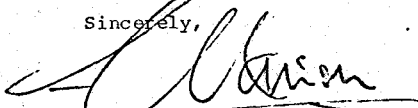
Stuart H. Russell, Esq.  
2290 Liberty Bank Tower  
Oklahoma City, Oklahoma 73102Re: United States v AMPI  
CA #5A 72 CA 49  
USDC, WD, Texas, San Antonio Division

Dear Stuart:

The attached copy of our letter of even date to George Mehren is self-explanatory. There's nothing like being able to control a subordinate or, phrased another way, beware of confirmed judges who aren't judging yet! (I am afraid the instructions, however, are down the line and that accounts for the evident implacability of those with whom you are dealing.)

I have read yours of February 22 and the enclosure. Your deft hand, "rough draft" or otherwise, covers all points I should think we would want to surrender but, of course, the frame of reference for my comment is little more than the pleadings - hardly the background of an expert. I do wonder about the need for §VIII and about the psychological affect upon the members to include them in the mandatory distribution set forth in §IX but I recognize both those sections are essentially boilerplate.

Sincerely,



MARION EDWYN HARRISON

MEH:h  
cc Dr. George L. Mehren

## SELECTED HOUSE JUDICIARY COMMITTEE MATERIALS \*

THE WHITE HOUSE

WASHINGTON

63

June 24, 1970

CONFIDENTIAL

MEMORANDUM FOR CHARLES W. COLSON

From: Jack A. Gleason *JAG*

Re: Milk Producers

001315

Chuck,

As we discussed yesterday, it seems logical to me to turn over to you most of the responsibilities for handling the Milk Producers, as they would normally belong in your area anyway. The mechanics on their support to us this year have been straightened out so that Dave Parr will coordinate directly with me on collection and distribution of support.

In the meantime, there are a few outstanding items that need to go into your pending problem category:

(A) First, Milk Producers for some time have been seeking to have the boss appear at one of their national meetings. This has been discussed and has gone around and around in the White House for some time without result as yet. However, you should know that they have now scheduled their next annual meeting for early September to be held in Chicago. As I understand it from Dave Parr, this meeting would include at least 15,000 of their members.

(B) The next question is that of the possibility of having the President request that the Tariff Commission take emergency action on dairy imports in a similar fashion to that which Johnson did in July of '67 following the March 30, 1967, request for a Tariff Commission investigation. I am attaching to this memo a copy of a letter Parr prepared which spells out in some detail exactly what they are looking for. The problem evidently is that since we

\* Note: After the preparation of the Select Committee's Report, the House Judiciary Committee considering impeachment of the President publicly released certain Presidential transcripts and documents that the Select Committee had previously subpoenaed from the President but which he had withheld. Certain of these materials are included in Appendix D.

WH

JACK GLEASON MEMORANDUM, JUNE 24, 1970, 1-2, WITH ATTACHMENT

- 2 -

recommended the Tariff Commission begin an investigation of dairy imports again, the European importers have begun to dump increased quantities of their product on our market. Parr is cognizant of the line of the President's last address on the state of the economy regarding the possible need for increasing all imports to offset inflationary pressures, but that, of course, in no way lessens his interest in achieving the above. I mentioned this to John Whitaker yesterday, but he is not familiar with the problem and I therefore assume that at this stage of the game neither Agriculture nor Whitaker is seriously contemplating the request for emergency action.

In any event, I would believe it advisable for you and I and Dave Parr to get together at some point in the near future to go over these and a few other smaller items.

Over to you.

001316

cc: Harry S. Dent

ATTACHMENT TO JACK GLEASON MEMORANDUM

Indistinct document retyped by  
House Judiciary Committee staff

Dear Mr. President:

On May 13, 1970, in accordance with my advice and recommendations, you directed the United States Tariff Commission to make an immediate investigation under Section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624) to determine whether certain dairy articles (ice cream chocolate crumb with a fat content of 5.5 percent or less, animal feeds containing milk or [sic] milk derivatives, and certain cheese containing 0.5 percent or less by weight of butterfat) are being, or are practically certain to be, imported under such conditions and in such quantities as to render or tend to render ineffective or materially interfere with the price support programs now conducted by the Department of Agriculture for milk and butterfat, or to reduce substantially the amount of products processed in the United States from domestic milk and butterfat. You have directed the Tariff Commission to report its findings and recommendations to you at the earliest practical date.

Pursuant to Section 22, I hereby advise that I now have reason to believe that certain additional articles are being imported, and are practically certain to be imported, under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support programs now conducted by the Department of Agriculture for milk and butterfat, and to reduce substantially the amount of products processed in the United States for domestic milk and butterfat.

Specifically, reference is made to the following articles:

- 1) Swiss or Emmenthaler cheese with eye formation; Gruyere-process cheese; and cheese and substitutes for cheese containing, or processed from, such cheeses; all the foregoing, if shipped otherwise than in pursuance to a purchase, or if having a purchase price of 47 cents per pound or more.
- 2) Cheese and substitutes for cheese provided for in items 117.75 and 117.85, part 4C, schedule 1 (except cheese not containing cow's milk; cheese, except cottage cheese, containing no butterfat or not over 0.5 percent by weight of butterfat, and articles within the scope of other import quotas provided for in this part); all the foregoing.
- 3) Lactose, a dairy product manufactured from whey.

Indistinct document retyped by  
House Judiciary Committee staff

ATTACHMENT TO JACK GLEASON MEMORANDUM

Indistinct document retyped by  
House Judiciary Committee staff

The imports of these articles have been increasing rapidly during 1970 and will apparently continue to do so if no action is taken to restrain such imports. It is, in my judgment, most desirable that the Tariff Commission make recommendations to you as to the effect on price support programs of imports of quota-type cheeses selling at a price at or over 47 cents per pound and imports of quota-type "other cheese" under existing quota levels, including the 7.5 million pound allocation in this category to New Zealand. I have also concluded that there should be an investigation of the effect of the growing imports of the product known as lactose. The growth of imports of these articles has become of increasing concern to me since my previous recommendation to you and since your letter to the Tariff Commission of May 13, 1970.

In view of the foregoing, I recommend that you cause an immediate investigation to be made by the United States Tariff Commission as to such articles and that you direct the Tariff Commission to include said articles within the scope of the investigation directed by your letter of May 13, 1970.

Furthermore, I determine and hereby report to you that, with respect to the articles which were the subject of your letter to the Tariff Commission of May 13, 1970, and the additional articles described in this letter, a condition exists requiring emergency treatment of all such articles. I therefore recommend that you take immediate action, pursuant to Section 22 (b), to impose limitations on the quantities of such articles which may be imported in a quota year without awaiting the recommendations of the United States Tariff Commission with respect to such articles.

Sincerely,

Secretary of Agriculture

Indistinct document retyped by  
House Judiciary Committee staff

Retyped from indistinct original

H.R. HALDEMAN MEMORANDUM, AUGUST 7, 1970~~CONFIDENTIAL~~

MEMORANDUM

THE WHITE HOUSE  
WASHINGTON


DF

August 7, 1970

MEMORANDUM FOR: MR. COLSON  
MR. DENT  
MR. KLEIN  
MR. MAGRUDER

As we develop our various outside projects, it becomes obvious that a lack of coordination with regard to financial resources has caused an overburdening of some potential resources, while totally neglecting others. In order to remedy this situation, I propose that Chuck Colson be placed in the position of coordinator for contacting these individuals. This will prevent several of you who have projects going at the same time from approaching the same person and thereby decreasing the effectiveness of our overall effort.

If there is a problem with this, get together with Chuck and work out another solution, otherwise let's consider this standard operating procedure for the future.

  
H.R. HALDEMAN



JEB MAGRUDER MEMORANDUM, AUGUST 18, 1970

Indistinct document retyped by  
House Judiciary Committee staff

August 18, 1970

MEMORANDUM FOR: Mr. Haldeman  
Mr. Klein

FROM: Jeb S. Magruder

With reference to your August 7 memorandum regarding better coordination of financial resources, I think it is an excellent idea to coordinate this function in Chuck Colson's shop. As you point out, it will eliminate the embarrassment that comes when two White House staff members approach the same person at the same time on two different projects.

There is, however, one point that should be noted; this office is charged with the responsibility for advertising campaigns such as those relating to ABM, the Gallup poll, and the anti-war amendments. I am assuming that we will want to continue these projects when important issues develop. I think we should be very careful in the use of these ads and that they should only be done when they have direct, beneficial results to the President. These projects run into considerable expenditure. Often we will finance them by quick calls to potential donors, but since there usually is little or no lead time, sometimes we get a project paid for and sometimes not. Chuck would have the same problem; for example, if on Monday we determined that an ad had to run on Friday, Chuck would have just a few days to find the right donor.

Therefore, I propose that we increase our fund at the RNC by \$200,000 per year so that money will be on hand and available for projects such as these. As you are aware, we have a fund of this type for mailing purposes. The \$200,000 figure is one I selected based on the relative priorities within the Administration. Considering expenditures for many of our activities, this figure would seem to be well within the limits for the type of exposure the advertising could bring us if done correctly. This will result in a more efficiently run advertising program and will eliminate the frantic calls to donors when it is determined that such a project might be undertaken.

Confidential

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House Judiciary Committee staff

JEB MAGRUDER MEMORANDUM, AUGUST 18, 1970

-2-

Indistinct document retyped by  
House Judiciary Committee staff

This would also help prevent a problem that could easily develop in our advertising efforts. It is becoming apparent that we have to become much more careful in dealing with agencies than we have been. By funding through the RNC and using them as our "front", we can be assured if they are caught it would not have the same impact as it would if we were put in the same position.

JSM:RCO:ger

bcc: Mr. Colson

---

Indistinct document retyped by  
House Judiciary Committee staff

CHARLES COLSON MEMORANDUM, WITH ATTACHMENTS

THE WHITE HOUSE  
WASHINGTON\* RE: OPEN HOUR 53  
EVENT #75  
MTG WITH NELSON & PARRCONFIDENTIAL  
MEMORANDUM FOR: THE PRESIDENT

SUBJECT:

Meeting with officers of the Associated  
Milk Producers, Incorporated  
September 9, 1970  
12:25 p.m. (10 minutes)  
Oval Office

001292

I. PURPOSE: Photo opportunity.

II. A. Background: This open hour meeting was scheduled so that a photograph could be taken for publicity purposes. The Milk Producers had very much hoped to have you at their convention last weekend in Chicago. Secretary Hardin represented you and Lunderstand that you talked by phone with the Chief Executive, Mr. Harold Nelson.

\* The Milk Producers have made very significant contributions to various key Senate races in which we are interested this Fall (approximately \$150,000 in total). They have also pledged \$2 million to the 1972 campaign.

B. Participants: Mr. Harold S. Nelson, General Manager and David L. Parr, Special Assistant to the General Manager, Associated Milk Producers, Incorporated, and Charles Colson.

C. Press Plan: Ollie Atkins will take quick photographs.

III. TALKING POINTS:

A. It would be most helpful if you would tell Nelson and Parr that you are aware of their political support-- what they have already done this year to assist us and what they are committed to do in the future. If they

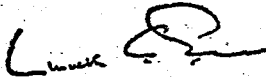
CHARLES COLSON MEMORANDUM, WITH ATTACHMENTS

Page 2

realize that you are aware of what they are doing, it will strengthen very much my hand in dealing with them.

- B. I would suggest that you tell them that you hope you can make some future convention and that you are sorry that you had to miss this one (according to Cliff Hardin, the Chicago stadium was full).
- C. Tell them, as you did on the phone Saturday, that you will be glad to meet with some of their key officials at some time in the near future to discuss farm problems of particular interest to the dairymen. You might also point out that Cliff Hardin has been a very vigorous and effective advocate of their problems and needs.
- ✓ (Hardin, on your behalf, announced at the convention Saturday that the special milk program would be funded for this fiscal year, a program we had previously opposed).

001253



Charles W. Colson

Charles Colson Memorandum With Attachments

THE WHITE HOUSE  
WASHINGTON

OPEN HOUR

Wednesday, September 9, 1970

12:00 Noon

The President's Office

THE PRESIDENT:

Event No. 1

001288

12:00 p.m.

Dr. Kevin McCann

to

12:10 p.m.

Dr. Kevin McCann, who is an old friend of yours, will be brought into your office for a brief visit with you. He will want to discuss with you his decision to take over the Presidency of the Freedom Foundation.

Gift: RN Mint Medallion

\* \* \* \* \*

Event No. 2

12:10 p.m.

Admiral E. P. Holmes, USN

to

Supreme Allied Commander (NATO)

12:15 p.m.

and

Commander in Chief, Atlantic (US)

General James D. Hughes

General Hughes will escort Admiral Holmes into your office for a brief visit with you. The purpose of the Admiral's visit with you is to pay a farewell call since he is retiring in September.

Gift: Presidential Tie Clasp

\* \* \* \* \*

WH

## Charles Colson Memorandum With Attachments

- 2 -

Open Hour

Wednesday, September 7,

Event No. 3

12:15 p.m.

to

12:20 p.m.

Miss Cathy S. Campbell  
Alex Butterfield

Mr. Butterfield will bring Cathy Campbell into your office for a handshake and a photograph with you. Miss Campbell has been working in the Security Files Section in the White House but is resigning her position to return to College to obtain a second Bachelor's Degree to enhance her FSO opportunities.

Gifts: Presidential Bow Pin

\* \* \* \* \*

001289

Event No. 4

12:20 p.m.

to

12:25 p.m.

Seaman Patricia Sargent  
SP 5 Brenda Davis  
Sgt. Beverly Kilby  
Sgt. Susan West  
Lt. Col. John R. Sayre  
Major Leonard Rice  
Major Jack Brennan

Major Brennan will escort the above group into your office. The Misses Sargent, Davis, Kilby and West hold the title of Miss Military Voters and are representing their respective Services in an annual effort to encourage military personnel to exercise their voting responsibility by voting absentee.

Gifts: Men: Presidential Key Chains  
Women: Presidential Bow Pins

\* \* \* \* \*

WH

Charles Colson Memorandum with Attachments

Open Hour

Wednesday, September 9, 1969

- 3 -

Event No. 5

12:35 p.m.

to

12:35 p.m.

Harold S. Nelson, General Manager

~~\* Associated Milk Producers, Inc.~~

David L. Parr, Special Assistant to General Manager

Mr. Charles Colson

Mr. Colson will escort Messrs. Nelson and Parr into your office for a handshake and a photograph with you. The Associated Milk Producers organization was formed in November of 1969 as the result of the merger of various other farm groups.

Gifts:

Presidential Key Chains

\* See separate briefin  
paper from Colson - att  
(25¢ contribution fig)

Event No. 6 001290

12:35 p.m.

to

12:40 p.m.

Mr. and Mrs. Charles H. Thomas

Dana Thomas

Mr. and Mrs. Thomas and their six-year-old daughter Dana will be brought into your office for a handshake and a photograph with you.  
Mr. Thomas was present at a previous Open Hour and was invited by you to return with his daughter at some future date.

Gifts:

Mr. Thomas: Presidential Key Chain

Mrs. Thomas: Presidential Bow Pin

Dana Thomas: Apollo View-Master

WH

677

Charles Colson Memorandum With Attachments

Open Hour

- 4 -

Wednesday, September 9, 1970

Event No. 7

12:40 p.m. Mr. Lynn Culver  
 to Mr. Neil Lewis  
 12:45 p.m. Mr. Burl Bohlen  
 Mr. Merlin Bulch  
 Mr. Earl Nixon  
 Mr. Robert Ruddy (Sen. Mundt's Office)

The above-named group represents the "Concerned Citizens of South Dakota" and will be brought into your office to present you with petitions of support concerning your position in Southeast Asia. They have collected over 20,000 signatures.

Gifts: Presidential Tie Clasps

\* \* \* \* \*

Event No. 8

001291

12:45 p.m. Mrs. Marie Kittridge, Legislative Chairman,  
Gold Star Mothers, Inc.  
 12:55 p.m. Mrs. Elva Newman, Washington Representative  
 Mrs. Bettyann Funk

These ladies represent the organization that sought court action to prohibit the New Mobie from placing the names of their deceased sons on placards during the demonstrations last November. During that November week-end they held numerous press conferences and received excellent publicity that was favorable to us. You wrote Mrs. Newman and Mrs. Funk personal letters of appreciation.

Gifts: Presidential Bow Pins

\* \* \* \* \*

NOTE: Ollie Atkins will be present to photograph each of these events.

WH

*Stephen Bull*  
 Stephen Bull



CHARLES COLSON MEMORANDUM, SEPTEMBER 15, 1970Indistinct document retyped by  
House Judiciary Committee staffSECRET

September 15, 1970

MEMORANDUM FOR H. R. HALDEMAN

John Brown has advised me that there is some question over one of the recommendations in Magruder's memo to you of the 18th regarding outside funding. Let me attempt to clarify it in the following way.

1. I will coordinate, as you have directed, all outside funding activities so that there will be one central point for soliciting money from our friends for support-type activities. I have been doing this in recent weeks.
2. Jeb recommends that a budget be established at the RNC of \$200,000 per year which we can draw upon for urgent needs, especially when we don't have time to go out and solicit funds for a particular project. Contrary to Jeb's memo, the RND [sic] should not be a "front." My idea of this is that they would simply pay bills, or better yet, funnel money through outside organizations especially where there is no reporting requirement. In other words, if we need a quick ad run by the Citizens Committee for something or other, we would draw the money out of the RNC budget and funnel it through the Citizens Committee. The idea here is not to get the RNC publicly involved at all but simply to have a kitty available.
3. I have arranged for a public relations firm here in town to do things on our behalf. They handled much of the ABM effort financially and also are subsidizing the overhead of Americans for Winning the Peace. Some of our friends have retained this outfit and essentially this gives them the financial resources to do things for us. Once this is fully set up, we will have available through this resource about \$100,000 a year. These funds can't be used for direct media expenses because these would not be deductible to the public relations firm. They can be used, however, to put people on their payroll, pick up travel expenses, mailing, editorial, graphic and other media preparation expenses. That's how we handled the ABM effort. This firm also distributed material and worked with friendly columnists in getting out anti-Heard material. They were exceedingly effective and provided a perfect cover for us.

Indistinct document retyped by  
House Judiciary Committee staff

CHARLES COLSON MEMORANDUM, SEPTEMBER 15, 1970

Indistinct document retyped by  
House Judiciary Committee staff

If the foregoing resolves any questions in your mind, I will see that this is implemented.

Charles W. Colson

cc: John Brown  
Jeb Magruder ✓

Indistinct document retyped by  
House Judiciary Committee staff

CHARLES COLSON MEMORANDUM, SEPTEMBER 16, 1970, WITH ATTACHMENT

65  
 - Politics  
 Feb

September 16, 1970

HIGH PRIORITY - EYES ONLY

## MEMORANDUM FOR JOHN DEAN

A group that strongly backs us politically and financially has raised a question with me as to whether or not the Corrupt Practices Act precludes them from giving more than \$5,000 to a candidate. Their reading of the Act is that they cannot.

What they have is a trust arrangement patterned almost identically after the COPE system. They collect many small contributions from their members. The funds go into a trust and are then disbursed by the trustees. I have told them that they can give up to the statutory ceiling to any number of committees, but they read the statute, however, as putting a \$5,000 ceiling on any contributions, direct or indirect, from any person or group of persons to any individual candidate.

I took a quick look at the statute, but I don't want to rely on my own reading of it. I'd like an authoritative answer. All I can say is, I must be right and they must be wrong, because we know that in many campaigns much more than \$5,000 has been given to candidates by COPE and others, and, of course, many of our contributors by using different committees did much more in 1968 than \$5,000. Can you get a quick reading on this from Justice, because I am obligated to get back by phone this week to this group, and I do not want to keep 'hem hanging, inasmuch as we need their funds.

001321

Charles W. Colson

Bide Istems  
 512-341-8651

W/TICKLER - 5 days

CHARLES COLSON MEMORANDUM, SEPTEMBER 16, 1970, WITH ATTACHMENT

John Dean says:

There is no limitation on the dollar amount under the Corrupt Practices Act when the distribution or contribution is given to state or local committee or an organization in the District of Columbia -- in other words,, there is no limitation.

ATTACHMENT TO CHARLES COLSON MEMORANDUM

Mr. Isham said he had resolved this earlier  
but appreciated your message.

001320

CHARLES COLSON MEMORANDUM, NOVEMBER 2, 1970, WITH ATTACHMENT

November 2, 1970

MEMORANDUM FOR JACK GLEASON

Would you please make some discreet inquiries about this?

Charles W. C olson

001327

## Attachment to Charles Colson Memorandum, November 2, 1970

THE WASHINGTON POST Sunday, Oct. 31, 1970 A7

# Dairy Fund Aids 3 Unopposed in Election

By James R. Peck  
Associated Press

A plush political fund for milk producers has made \$13,000 in campaign contributions to the chairman of the House Agriculture Committee and two other farm congressmen who are unopposed for re-election.

The chairman, Rep. W. R. (Bob) Poage (D-Tex.), unopposed in Tuesday's election after 34 years in Congress, received a \$5,000 contribution from the milk group, the Trust for Agricultural Political Education.

Two freshman members of the Agriculture Committee who also have no races this year, Rep. Edward Jones (D-Tenn.) and Rep. Bill Alexander (D-Ark.), got other sizable contributions.

## \$13,000 in Fund

Milk is buoyed by government price supports. The Trust for Agricultural Political Education is a rich new campaign fund overflowing with \$400,000 in donations from dairy farmers around the nation.

About half of the trust's first term from west Tennessee campaign money has gone to see, said he is using the other to top Senate races in rural states or to elections involving House Agriculture Committee members.

Poage is the second unopposed House chairman benefiting from special interest groups this year. Farmers for two seamen's unions stirred \$5,000 through a hidden non-evasiating body set up in Washington for Rep. Edward A. Garmatz (D-Mich.) chairman of the House Merchant Marine Committee.

Poage listed the \$5,000 in his pre-election report filed with Congress this week and indicated the money has been left on deposit in a special campaign bank account in Waco, Tex.

The trust gave \$2,500 to Jones this summer and a total of \$6,000 to Alexander over the past year and a half. All three committee members were unopposed in their summer primaries as well as Tuesday's general elections.

## Set Up Last Year

The campaign fund, based in San Antonio, Tex., was set up last year by officials tied to Associated Milk Producers Inc. That organization's controller, Robert O. Isham, is treasurer and sole official of the trust.

Isham said the trust makes its contributions to farm congressmen on the basis of need. "And," he said, when asked about the unopposed members, "I've never talked to a politician who didn't need money."

Jones, a dairy farmer in Tennessee, said he is using the money for ads in weekly newspapers, bumper stickers, posters and travel.

"I'm trying to keep my name before the public. You run every day—and just once every two years," Jones said. Alexander, whose car lost post to Congress did not get any campaign contributions or spending this year, could not comment.

## For Future Use

The Texas campaign treasurer for Poage said the \$5,000 for the chairman would be kept in the separate campaign bank account for use in any election race in the future. "It's held there strictly for that. Bob Poage is very careful and conscientious and even demanding about a thing like that," said Charles Smith, a Waco lawyer.

The trust gave its \$5,000 to Poage's campaign at the start of this year after voting out a total of \$6,750 for a dinner honoring the House speaker last fall and another \$17,000 to a joint testimonial luncheon for Poage and Rep. Wayne Hahn (D-Tex.).

The \$5,000 for Poage, which also is the trust's contributions to three other farm committee members, was

looked in close races this fall: Rep. Watkins Abbott (D-Va.), John Melcher (D-Mont.) and Graham Purcell (D-Tex.).

## Challengers Aided

Not all money went to incumbents. The trust gave \$5,000 to James R. Jones, a former White House aide in Tulsa, Okla., trying to unseat the top-ranking Republican on the Agriculture Committee, Rep. Patsy Belcher. But it also gave \$5,000 to Belcher's re-election campaign.

At the same time, the trust gave another \$9,000 each to GOP challengers trying to capture Senate seats held by Democrats in Florida, Indiana, New Jersey, North Dakota, Tennessee, Utah, and Wyoming.

But the trust hedged some of its bets.

In addition to \$5,000 for the Republican in Indiana, it gave \$2,500 to incumbent Democratic Sen. Vance Hartke. It also made a double donation in Wyoming, with \$2,000 for incumbent Sen. Gale McGee. Isham explained, "We hope to have a friend no matter which one is up there in Washington."

CHARLES COLSON MEMORANDUM, NOVEMBER 3, 1970

67

November 3, 1970

## MEMORANDUM FOR MURRAY CHOTINER

Would you please check with your friend, Harrison, and tell him if he wants to play both sides, that's one game; if he wants to play our side, it is entirely different. This will be a good way for you to condition him before we put the screws to him on imports, which we are about to do.

001325

Charles W. Colson

cc: Henry Cashen

35-687 1924



CHARLES COLSON MEMORANDUM, DECEMBER 18, 1970

Indistinct document retyped by  
House Judiciary Committee staff

File with  
Dairy  
Imports --  
December 18, 1970

## MEMORANDUM FOR MURRAY CHOTINER

Your friends, Harrison and Hillings, have just about run out of string with Henry Cashen and me. They are personally abusive -- particularly Harrison -- not only to the two of us but to the secretaries in this office and they are making impossible demands. They continually go around us. They have told us that we cannot under any circumstances talk to their principals. Their clients, of course, continue to call us and in an effort to be helpful to Harrison and Hillings we refuse to take the calls.

They have so muddled up the present dairy import situation that I almost think there is no way that we can help them. It is, believe me, an incredible situation. I practiced law for ten years in this city and wouldn't think of treating a messenger from GSA the way these guys think they can order the White House around. Frankly, in view of the relationship with the dairy industry that is involved, I think that these guys are simply too dangerous to deal with and that they should either be put in their place or cut out of the act altogether. They have also refused to help recently in a matter of great importance to us. In sum, they are very, very bad news.

Unless the situation can be straightened out, I intend to talk to the dairymen directly with the Secretary of Agriculture and simply let them know that we will deal with them on any problems but that we cannot deal with their lawyers -- or at least in the way in which their lawyers have been acting.

Charles W. Colson

bcc: Henry Cashen

Indistinct document retyped by  
House Judiciary Committee staff

DAVID PARKER MEMORANDUM, FEBRUARY 2, 1971

Indistinct document retyped by  
House Judiciary Committee Staff

THE WHITE HOUSE

WASHINGTON

February 2, 1971

MEMORANDUM FOR:

✓ Chuck Colson  
John Whitaker

FROM:

Dave Parker

RE:

Leaders of dairy industry

Secretary Hardin has put forth a proposal that the President meet with the various national leaders of the dairy industry. What would be your recommendation in this regard?

Approve \_\_\_\_\_  
Disapprove \_\_\_\_\_

✓

Reason: .

The President said he wanted to do this -- and should -- I should be included in the meeting for special political reasons

Thanks.

Indistinct document retyped by  
House Judiciary Committee staff

DAVID PARKER MEMORANDUM, FEBRUARY 4, 1971

Indistinct document retyped by  
House Judiciary Committee staff

MEMORANDUM

THE WHITE HOUSE

Washington

February 4, 1971

MEMORANDUM FOR JOHN EHRLICHMAN

FROM: Dave Parker

RE: Leaders of Dairy Industry

Secretary Hardin has sent a memo concerning the President's expressed interest in meeting with leaders of the dairy industry (attached). Colson and Whitaker strongly recommend the President meet with the group on the attached list.

Do you concur? No objection

THE WHITE HOUSE

Washington

Date: 1/27/71

To: C

From: Bruce Kehrli

H has not seen -

Please handle  
B.

Indistinct document retyped by  
House Judiciary Committee staff

DAVID PARKER SCHEDULE PROPOSAL, FEBRUARY 16, 1971

THE WHITE HOUSE  
WASHINGTON

February 16, 1971

001190

SCHEDULE PROPOSAL

FROM: David N. Parker

VIA: Dwight L. Chapin

MEETING: Leaders of the dairy industryDATE: open

PURPOSE: To enhance agriculture's support of Administration programs; and, because the President said he wanted to do this in his telephone message to the American Milk Producers Conference last September, as well as when meeting with Messrs. Nelson and Parr he stated he would meet with the leaders again.

PRESIDENTIAL PARTICIPATION

- Cabinet Room
- is attending (not attached) Mrs. Secretary H
- half hour meeting

approve   H   disapprove       

Coverage:

To be announced

Photo opportunity

approve   H   disapprove       approve   H   disapprove       STAFF: John WhitakerRECOMMENDATIONS

In Favor

Chuck Colson  
John Ehrlichman  
Murray Chotiner  
Secretary Hardin  
John Whitaker

Colson - "The President said he wanted to do this and should".

DAVID PARKER SCHEDULE PROPOSAL, FEBRUARY 16, 1971

Page Two  
Dairy Industry

Chotiner - "Substantial support coming from this group".

Whitaker - "The President committed himself".

BACKGROUND: Secretary Hardin urges this meeting be held. He says that last fall at the time of the convention of the Associated Milk Producers, he talked with the President on the phone and the President extended an invitation to key members of the dairy industry to meet with him.

FOLLOW UP:

Colson says the Dairy industry has a good PR program and this meeting will be exploited widely in the dairy industry.

*and for*

001191

GARY SEEVERS MEMORANDUM, MARCH 3, 1971

WJH

Mr. McCracken &amp; Mr. Houthalder

3/3/71

Gary Seevers

Dairy Price Support

001071

**This is Dairy Week in Washington!**

The prime issue today is the price support level for manufacturing milk. The Department of Agriculture phoned this morning and said they were sending materials to CEA-OMB that recommended the same support level for the marketing year beginning April 1, 1971 as the present year. They are also recommending a lower support for butter, offset by a higher support for nonfat dry milk, in order to bring relative prices of the supported dairy products more in line with their market demands.

Agriculture wants to make an announcement later today. Their reason for not following the 10-day rule is that this particular issue is so politically-charged that even to circulate papers and allow them to "ferment" would generate intense political pressure. After participating in the cheese import issue which is subject to the same political forces, I agree with Agriculture's strategy.

Should we support Agriculture's Recommendation

The dairy support level has been raised as follows in recent years:

	<u>\$ per 100 lbs.</u>	<u>Percent of Parity*</u>
1965	\$3.24	75
1966	4.00	89
1967	4.00	87
1968	4.28	89
1969	4.28	83
1970	4.66	85
1971 (recommendation)	4.66	80

\*Legal range: 75-90 percent

There is no economic case for raising the support in 1971. Dairy production is rising in response to higher prices while consumption is

GARY SEEVERS MEMORANDUM, MARCH 3, 1971

2

lagging; the Commodity Credit Corporation is purchasing more dairy products to support prices and the high domestic prices have encouraged imports to grow despite the restrictive quotas on many types of dairy imports.

While it would be consistent with the Council's position on agricultural policy to advocate a lower price support, the best that can be hoped for in this situation is to hold the line. If the support price is raised, it will be directly reflected in consumer prices for dairy products after April 1.

Courses of Action

001072

1. Refuse to respond on such short notice.
2. Respond directly to Agriculture (probably call Secretary Hardin)
3. Respond to OMB (probably call Shultz who is directly involved in this issue and give him our position or ask to participate in the final decision).

I would recommend that we join Agriculture and OMB (I believe they will agree on \$4.66) on this issue. A unified position by the three agencies could have a chance to offset the political pressure for raising the support price.

cc: HS  
SJ

MM

DONALD RICE MEMORANDUM, MARCH 4, 1971

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

March 4, 1971

MEMORANDUM FOR MR. SHULTZ  
MR. EHRLICHMAN

SUBJECT: Decisions on Dairy Problems

Dairy interests are pressuring the Administration for action on three related issues. To a certain extent, we have been treating these questions separately. They should be decided as a package.

The three issues are:

- do we restrict imports of cheeses above 47¢ per pound (price-break cheese);
- do we raise the price support level for milk from \$4.66 to \$5.05 per hundredweight;
- do we have Agriculture purchase large quantities of cheese for the school lunch and commodity distribution programs.

001297

These three issues are related because an increase in the support price would mean higher prices and larger production which could only be sustained through increased Government purchases and import controls on foreign supply. Alternatively, we could think about the interrelationships in reverse sequence. Controlling imports (supply) and increasing purchases (demand) will increase market prices which in turn would allow dairy interests to argue that support prices could be increased without increasing budget costs. Thus, raising the milk price support level aggravates the cheese import problem. Indeed cheese import problems have already been exacerbated by last year's price support increase. Even so, imports of dairy products represent a very small proportion of dairy business in the U.S. compared to many other sectors of our economy.



DONALD RICE MEMORANDUM, MARCH 4, 1971

2

If we accede to the dairy interests on these three issues, the result would be higher budget costs, increased production and surpluses of milk products (see table). Next year at this time the President would surely be faced with a choice between even larger surpluses or a decrease in the support price, an unhappy choice in an election year. In addition, such a combination of actions would most likely lead to retaliation against U.S. agricultural exports. This could bring lower farm income and larger surpluses in non-dairy commodities as well.

	<u>FY71</u>	<u>FY72</u>	
	\$4.66	\$4.66	\$5.05
	<u>spt. price</u>	<u>spt. price</u>	<u>spt. pr</u>
CCC purchases (bil. lbs.)	6.7	6.5	7.8
Budget costs (mil \$)	\$380	\$390	\$500+

001208

	<u>Budget Proposed</u>	<u>Budget Proposed</u>
Cost of cheese purchases	- \$10	- \$39

Dairy farm income is now at an all-time high of \$6.5 billion and is projected to rise to \$6.6 billion next year with no change in the milk price support level. Last year's price support increase was the largest ever (budget cost of \$100 million per year). Further increases this year would not only lead to surpluses and an unhappy political choice next year, but would be inflationary and probably not even be in the dairymen's best interest when the need to develop export and domestic markets is taken into account. Dairy interests are by no means of one mind on these issues. Some believe a price increase now would greatly depress demand for products for which substitutes exist. For example, I understand Rep. Quic (a dairy farmer himself) strongly opposes an increase in the price support level at this time.

WH

DONALD RICE MEMORANDUM, MARCH 4, 1971

3

The proposed cheese purchases would increase budget costs by \$10 million in FY 71 and \$39 million in FY 72 (see table). Agriculture (believing the White House wanted it) has already announced that \$6 million (unbudgeted) worth of cheese would be distributed in FY 71. This will be the first distribution of cheese for the school lunch program in 16 months. All cheese purchased through the price support program has been distributed to needy families. The states have purchased large quantities of cheese for school lunches. The amount proposed for federal purchase in FY 72 (unbudgeted) is about double what the states have been buying.

Secretary Hardin strongly urges holding the line on the price support level. He wants to announce this position as soon as possible but wants Presidential approval first. He also proposes simultaneously announcing the purchase of cheese for the school lunch program and an intent to purchase "substantial quantities" in the future. He clearly feels under pressure, partly from the White House, to include the quoted language.

Pete Peterson has been working on the price-break cheese problem. He may support the recommendation of the Task Force on Agricultural Trade that the President direct the Tariff Commission to investigate this problem. I understand he has some wrinkles to his proposal with which I am not fully familiar. Perhaps these features would reduce the likelihood that the Tariff Commission recommendations will force the President into protectionist actions.

I recommend that we package up the following for announcement as soon as possible:

1. holding the line on the price support level,
2. purchasing moderate quantities of cheese for this year's school lunch program but with no commitment to large future purchases,
3. directing the Tariff Commission to study the price-break cheese support problem.

001209

WH

DONALD RICE MEMORANDUM, MARCH 4, 1971

4

Hyde Murray believes that this package would be quite satisfactory to Representatives Poage and Belcher. Clarence Palmby believes strongly that it would satisfy Wilbur Mills. John Whitaker concurs.

If at all possible the announcement should be made late in the day Friday or first thing Monday to minimize any appearance of manipulation of commodity markets (the Green Bay cheese market is open Friday only).

Donald B. Rice  
Assistant Director

ROUTING MEMORANDUM ATTACHED TO DONALD RICE MEMORANDUM

23

~~25~~

JCW:

Ehrlichman thinks something should  
be done about this today. Tod wants  
to know if you are, or want to be,  
involved in it. He would like your  
advice.

001206

sa

Has this been  
taken care of?  
SNA Yico

CLARK MacGREGOR MEMORANDUM, MARCH 5, 1971

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 5, 1971

MEMORANDUM FOR:

JOHN EHRLICHMAN  
GEORGE SHULTZ

FROM:

CLARK MacGREGOR

SUBJECT:

001217

Discussion on Dairy Problems

I have before me Don Rice's four-page memo to Messrs. Shultz and Ehrlichman dated March 4th. At the bottom of Page 2 Don Rice states that Representative Al Quie (R-Minn) "strongly opposes an increase in the price support level at this time." This is not correct. On the basis of several personal conversations, the latest being late yesterday, what is correct is that Al Quie does not feel that it is necessary or advisable not to announce support levels at 85% of parity. Al Quie would be seriously embarrassed in his district were it to become known that he strongly opposes the 85% position taken by Speaker Albert and Congressmen Mills and Byrnes. What Al said to me was, "The Land O'Lakes position is a sound one, but I am not saying that for publication."

On Page 4 of the Rice memo it is stated, "Clarence Palmby believes strongly that it [the Rice-recommended package] would satisfy Wilbur Mills." This is not correct. Wilbur Mills has urged me more than a half a dozen times in the last three weeks to urge the President to announce the 85% of parity price support level; the latest Mills appeal to me was by phone late in the afternoon of March 4th.

cc: Don Rice  
Pete Peterson  
John Whitaker

35-687 1937

DONALD RICE MEMORANDUM, MARCH 5, 1971, WITH ATTACHMENT

EXECUTIVE OFFICE OF THE PRESIDENT  
 OFFICE OF MANAGEMENT AND BUDGET  
 WASHINGTON, D.C. 20503

John E.

20

March 5, 1971

001200

(22)

MEMORANDUM FOR MR. SHULTZ

SUBJECT: Further Information on Dairy Problems

As you requested, the enclosed table displays price "support levels, parity rates, budget costs and CCC purchases. The table also shows the rising trend of dairy farm income.

Even if the President decides to delay action at this time on cheese imports so that this question can be handled as part of a broader policy on international trade, I recommend no increase in the milk price support level this year. Increased purchases of cheese should be enough to give the dairymen this year. My reasons are detailed below.

-- As the enclosed table indicates, dairy farm income is at an all-time high and rising. Income is not directly related to the parity rate. Parity dropped from 89% in 1968 to 83% in 1969 while income rose as shown in the table. Last year's increase to 85% parity brought about an even greater spurt in gross income. Net income figures for 1970 are not available but will certainly show a substantial increase

-- Another increase this year on top of last year's large increase would be contrary to the Administration's policy of greater reliance on expanding markets to provide the basic underpinning to farm income. Consumption per capita has been declining. Another increase this year would accelerate that trend.

-- According to Hyde Murray, there are responsible voices in the dairy business who do not want an increase this year; for example, the Badger Co-op in Wisconsin and Land o' Lakes Co-op in Minnesota, two large independents, oppose an increase. So does the Farm Bureau. Wisconsin and Minnesota are, of course, areas that would be most directly affected.

WH

DONALD RICE MEMORANDUM, MARCH 5, 1971, WITH ATTACHMENT

2

-- Production response to higher dairy prices takes time. The full effects of last year's increase have not yet been seen. Therefore, there is some likelihood that any price increase this year will face the President with a choice next year of, at best, being forced to hold the line or, at worst, having to reduce the price support level.

-- The heavy pressure for an increase is coming from the Associated Milk Producers, Inc. This is a near-cartel formed by merging about 60 smaller co-ops into 8 larger ones. This organization is trying to control supply and administer prices, particularly of fluid milk for home consumption. They restrict supply by operating their own processing plants which can convert fluid milk to butter, non-fat dry milk or cheese (for sale to the CCC if necessary) thus propping up the price of fluid milk. A price support increase would reward AMPI activities. I understand that the FTC and Justice are taking a hard look at this situation.

-- A small increase in the price support level would not mollify the AMPI. It would be seen as token. We have to make up our mind whether we want to rely on markets for more farm income or else make a big enough increase in price supports to have a real effect on income.

-- Any increase in the price support level will increase consumer prices for dairy products, attract imports and exacerbate the price-break cheese problem.

-- Parity is driven by the prices farmers pay, without an offset for productivity. After last year's big price support increase, it's time to share some of the fruits of productivity gains with consumers.

-- A price support increase would cause higher budget costs and greater surpluses as shown in the enclosed table.

001201

W/H

DONALD RICE MEMORANDUM, MARCH 5, 1971, WITH ATTACHMENT

3

If at all possible, the decision should be made in time to be announced first thing Monday so as to resolve the matter before the AMPI campaign builds any bigger head of steam than it already has.

Signed

Donald B. Rice  
Assistant Director

P.S. For your information, the price of cheese has risen 4-5¢ a pound (8-10%) in the last three weeks in response to the speculation and announcements about larger Government cheese purchases.

cc: Mr. Ehrlichman ✓  
Mr. Peterson  
Mr. MacGregor  
Mr. Whitaker

001202



ATTACHMENT TO DONALD RICE MEMORANDUM

## SCHEDULE OF PRICE SUPPORT LEVELS AND COSTS

<u>Price Support Level</u>	<u>% of Parity</u>	<u>Budget Cost</u>	<u>CCC Purchases</u>
\$4.52 per CWT	78.0%	\$220 mil	4.6 bil. lbs.
\$4.66	80.5	\$386	6.5
\$4.75	82.0	\$415	6.8
\$4.85	83.8	\$430	7.0
\$4.92	85.0	\$445	7.2
\$5.05	87.2	\$500	7.8
\$5.21	90.0	\$595	9.4

001203

## DAIRY INCOME

	<u>Gross Income</u>	<u>Net Income Per Dairy Farm</u>
1968	\$6.0 bil	\$15,700
1969	\$6.2	\$17,400
1970	\$6.5	N/A
1971	\$6.6 *	N/A

\* projected at \$4.66 price support level

WV

JOHN WHITAKER MEMORANDUM, MARCH 5, 1971

THE WHITE HOUSE  
WASHINGTON

Recommendation -- stick with Rice's recommendation. We could raise the price and prices fall from oversupply then we would have to cut price support in '72 and be in real trouble. Let's stick where we are and see what happens to the parity % for this year.

I've given Hyde Murray Senator Miller position -- he doesn't buy it either and agrees with Rice's recommendation.

JCW

001216

JOHN WHITAKER MEMORANDUM, MARCH 5, 1971

21

(2)

THE WHITE HOUSE  
WASHINGTONDate: 3/5/71  
12:15 PM

001214

TO: J.E.

FROM: JOHN C. WHITAKER

Recommendation -  
stick with Rice  
recommendations  
We could raise  
the price and prices  
fall from over supply  
then we could have  
to cut prices support  
in '72 and be in  
the

JOHN WHITAKER MEMORANDUM, MARCH 5, 1971

real trouble. Let's  
stick where we are  
and see what  
happens to the  
parity % for these  
years.

001215

I've given  
Hilde Murray  
several million points -  
he doesn't buy it  
either and agrees  
with Alice's recommendation  
J.C. Whitaker

CLARK MacGREGOR MEMORANDUM, MARCH 5, 1971, 1-2

Indistinct document retyped by  
House Judiciary Committee staff

THE WHITE HOUSE

Washington

March 5, 1971

MEMORANDUM FOR: JOHN EHRLICHMAN  
GEORGE SHULTZ

FROM: CLARK MacGREGOR

SUBJECT: Dairy Price Supports

Senator Jack Miller (R-Iowa), the ranking Minority member of the Senate Committee on Agriculture and Forestry, participated in a Roosevelt Room discussion at 10:00 a.m. this morning on the President's special revenue sharing proposal for rural development. I sat next to him. The following three memos passed between us, with Jack Miller initiating the action:

- I) 1. "Clark: It would be a political mistake to do nothing (re: the dairy price support question) this year and then do something in 1972 -- an election year. The dairy organizations would see through this, and so would the Democrats, and they would make hay by calling attention to the Administration playing politics with the dairy farmer.
  2. "Better to do something this year and something in 1972 (though less in 1972 than would be the case if nothing done in 1971).
  3. "Drop in parity price support from 85% to 81% represents cost-price squeeze which we ought to try to handle -- at the very least take action to prevent further drop in the parity ratio over next 12 months. Jack Miller"
- II) "Jack: Do you recommend that the President and Cliff Hardin announce that on April 1st the support price will be 81% of parity? Clark"

Indistinct document retyped by  
House Judiciary Committee staff

CLARK MacGREGOR MEMORANDUM, MARCH 5, 1971, 1-2

Indistinct document retyped by  
House Judiciary Committee staff

Page 2

Memorandum for: John Ehrlichman and George Shultz  
March 5, 1971

- III) "Clark: 82% would sound better. Those working for 90% don't expect it. Many of them fall back to 85% (like they got last year) -- but they should know that this costs \$100 million more to the government. So some of them have suggested at rock bottom holding prices so that there will not be further deterioration in parity. Jack Miller "

cc: Don Rice  
Pete Peterson  
John Whitaker

BILL GIFFORD MEMORANDUM, MARCH 9, 1971

Indistinct document retyped by  
House Judiciary Committee staff

THE WHITE HOUSE  
Washington

March 9, 1971

MEMORANDUM FOR THE DIRECTOR

Hyde Murray has recommended that the Administration maintain the status quo with respect to dairy price supports. He is supported in this view by other House Republican staffers who are less informed on the subject.

They suggest that if the Administration agrees to the suggestions of the House Democratic leadership that price supports be increased there could be very much increased dairy surpluses during the election year. This would create a difficult political issue.

Hyde Murray makes this recommendation with which I concur:

1. Do not increase price supports.
2. Refer the question of cheese imports to the Tariff Commission.
3. Announce the purchase of cheese for school lunch programs.

Following this recommendation would put the Administration in the best position during the coming election year.

Bill Gifford

Indistinct document retyped by  
House Judiciary Committee staff

CHARLES COLSON MEMORANDUM, MARCH 10, 1971, WITH ATTACHMENT

THE WHITE HOUSE

WASHINGTON

EYES ONLY

March 10, 1971

MEMORANDUM FOR JOHN EHRLICHMAN

FROM: CHARLES W. COLSON

My reasons for believing that we should take affirmative action on cheese imports at the same time parity levels are announced are as follows:

1. The obvious political support we discussed.
2. There is deep and growing disenchantment in the farm belt. The dairy segment has been one that has been with us. A negative parity decision and negative imports decision will have severe repercussions
3. The leaders of the dairy industry can "sell" to the farmers no increase in parity if they can say that the importation of milk substitutes, like cheese, will be controlled.
4. Merely saying that it is going to the Tariff Commission will be recognized as a stall giving our people no handle to use with the farmers.
5. On the merits this is not the typical trade problem. Historically, in the statutes and government actions, the government has always tried to bar imports of products that are subject to agricultural price support; inasmuch as free importation would result in the U.S. merely supporting the world market; hence, this would not be a trade action but rather an action to preserve the integrity of the price support program.

There was some reason for the dairy industry to believe last December that Hardin would ask for an emergency proclamation on dairy imports. If we do not take decisive action and keep present parity levels, we are going to catch a lot of political hell. Later action on the imports, which will have to come, probably will not then be enough to undo the damage to our political posture; we will be under more pressure than ever to increase parity later; hence, a blocking action now could be a lot less painful than trying to repair the damage later. This is one on which we should take the long view.

001301

11771



ATTACHMENT TO CHARLES COLSON MEMORANDUM

Mr. Harlichsman would like you to  
look at this and then talk with  
him about it.

3/11 - 6:40

001300

JOHN WHITAKER MEMORANDUM, MARCH 19, 1971THE WHITE HOUSE  
WASHINGTON

March 19, 1971

001229

MEMORANDUM FOR JOHN D. EHRlichman

FROM: John C. Whitaker

SUBJECT: Suggested Meeting with Secretary Hardin

I think we should have a prompt meeting with Secretary Hardin today. The prime issue is milk price supports. Contrary to what I reported in the 7:30 meeting this morning on a House count they did last night, Hardin is convinced there is a 90 percent chance that an 85 percent of parity price support for milk bill, sponsored by Carl Albert, will pass Congress. The issue is, if it passes, does the President veto it. Currently, we are playing a bluff game with the dairy people saying the President will have to veto a milk price increase and get credit on the consumer side, but Hardin doesn't think it will stop the bill from passing. He is now of the opinion that when the dairy meeting takes place with the President next Tuesday, the President should allow himself to be won over and go along with the argument of raising the price of milk to 85 percent of parity. This is the key issue and I think you, Shultz, Rice, Colson and I should discuss it with Secretary Hardin.

A secondary reason for the meeting is that Hardin is still hard on the idea that the extension service in some way should be held harmless in the rural revenue sharing bill. He is convinced we can never sell the bill without protecting the extension service, and that by protecting the extension service, we have enough votes to get those people working for us and pass the bill. He said he discussed it with the President, although only briefly in a reception line, and as predicted, the President said, "If you think that is what we ought to do, then we ought to go ahead." The Secretary recognizes that the game isn't played this way and wants an honest discussion with us about it.

cc: George Shultz  
Don Rice  
Chuck Colson

Add: Macdonald or Kinnaman

GEORGE SHULTZ MEMORANDUM, MARCH 20, 1971

Indistinct document retyped by  
House Judiciary Committee staff

March 20, 1971

MEMORANDUM FOR THE STAFF SECRETARY

Subject: Report on the President's Meeting with  
Secretary Connally, Dr. Burns, Mr. Shultz  
and Dr. McCracken on March 5 at 11:00 a.m.

The following items were discussed:

- 1) Paul McCracken reported on the economy and noted that the employment picture was mixed despite the decline in February in unemployment. The President insisted on the importance of not expressing a lack of confidence. Arthur Burns took issue with the President on the grounds that too much confidence talk would present a lack of credibility. The President responded that the situation was parallel to the war and the drive of the press to see to it that we do not succeed and argued that confidence would help the economy up, particularly since we are doing the right thing and believe that the substance of the situation is good.
- 2) Arthur Burns expressed his objections to public criticism by Administration officials of the Federal Reserve. The President pointed out that the Fed criticizes the Administration on every side and that we can't have a one-way street. He also reminded Dr. Burns of developments in 1967 when Burns and the President were both trying to get the Federal Reserve to loosen up on money because of the very soft economic situation, and Burns' dissatisfaction at that time with the way the Federal Reserve was behaving.
- 3) John Connally made the point to Burns that there was a need to drive interest rates down further especially insofar as individuals and small firms are concerned. Burns pointed out that the corporate rate has lately gone up about a percentage point as a result of the fact that lower interest rates were attracting a large volume of corporate offerings. He agreed with Connally that interest rates would probably go lower and that it would be important to say so. He said that he would say so in his testimony next week.

Indistinct document retyped by  
House Judiciary Committee staff

GEORGE SHULTZ MEMORANDUM, MARCH 20, 1971

Indistinct document retyped by  
House Judiciary Committee staff

- 4) Connally brought up the problem of the DuPont brokerage firm. All agreed that a strong effort should be made to keep the firm from going bankrupt. Burns remarked that much reform was needed but that this was not the time for it since a failure of a firm of this size would weaken confidence in the economy.
- 5) The President noted the importance of having a Domestic Council committee on the subject of antitrust laws and emphasized his view of the importance of allowing companies to merge or be acquired if that was a way of saving them.
- 6) There was also a discussion of dairy prices and the strong pressure to raise dairy prices coming from the dairy lobby. Burns argued strongly for doing everything possible to keep the prices from rising insofar as the consumer is concerned.
- 7) With regard to the Lockheed problem, Connally noted that the British proposal recently made to Lockheed was not acceptable but that negotiations between Lockheed and the British were continuing. Connally was maintaining a flow of information but not taking any government position in the situation. He also noted the possibility of a McDonnell Douglas takeover of Lockheed, giving his opinion that this would help salvage the situation that occurred.
- 8) The President spoke about the need to pay more attention to the problems of the airlines. He noted that many in the Administration are working on it but all have many other things to do and raised the possibility of an outsider with high prestige being brought in to spend fulltime for a few months helping get the situation straightened out. He mentioned the names of Tom Dewey, Bert Gross, Bob Tyson, Penlo Smith, Walter Thayer, and Fred Donner. Shultz was given the assignment of developing some recommendations on what to do and how to do it.

"Signed and Mailed"

George P. Shultz

Indistinct document retyped by  
House Judiciary Committee staff

JOHN WHITAKER MEMORANDUM, MARCH 22, 1971, WITH ATTACHMENTS.

THE WHITE HOUSE

WASHINGTON

March 22, 1971

001234

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Meeting with 13 Key Dairy Industry Personnel  
(Associated Milk Producers, Inc.)  
Cabinet Room  
Tuesday, March 23  
10:30 a.m. (20 minutes)

I. PURPOSE: To hear their views on recent decisions by the Administration on dairy products.

II. BACKGROUND:

The dairy lobby has become very strong -- a very large cooperative running from Minnesota through Texas -- which lately have decided, like organized labor, to spend a lot of political money. Pat Hillings and Murray Chotiner, for example, are involved.

By April 1 each year, the Department of Agriculture announces their decision on milk price supports. The lobbying (Senators Miller and Curtis, Speaker Carl Albert, Wilbur Mills, etc.) has been intense this year. On March 12, you approved the recommendation of Secretary Hardin, George Shultz, John Ehrlichman and Pete Peterson, and USDA announced a three-part package to:

1. Held the support price for manufactured milk at \$4.66 per hundred weight for the 1971-72 marketing year beginning April 1, 1971, (this is now about 80.5% of parity). The lobby wanted \$5.05 per hundred weight which would be about 87.2% of parity. The Administration was concerned that further increases in the price of milk (increased \$.38 or 9% last year would result in over production, plus a possible penny-per-quart increase in the price of milk;

2. USDA announced purchase of cheese for the USDA food (school lunch) program;

WH

NOTE: THE INDISTINCT STAMP MARK IN THE UPPER RIGHT CORNER OF PAGE ONE STATES, "THE PRESIDENT HAS SEEN THIS."

JOHN WHITAKER MEMORANDUM, MARCH 22, 1971, WITH ATTACHMENTS

- 2 -

3. USDA noted that you directed the Tariff Commission to conduct an immediate investigation under Section 22 on the imports of cheese because of the sharp 1970 increase in cheese imports and the need to protect the price supports for milk in the face of these increasing imports.

Finally, last week, Congress (at Carl Albert's instigation) started talk of introducing a bill to set milk prices at 85% of parity. Albert obviously sees "a good thing." Page Belcher is concerned that the Democratic leadership, to embarrass you, could get enough liberal support for the bill (in spite of the penny-per-quart increase in the price of milk from the consumer viewpoint) combined with rural Republican Congressmen who don't want to take the heat to pass the bill and confront you with a very tough veto situation.

John Ehrlichman, George Shultz, Don Rice, Henry Cashen and John Whitaker met with Secretary Hardin and Under Secretary Phil Campbell on this problem last Friday and recommended that you appear in this meeting to hold the line, listen to their arguments and then await developments on the bill in the next two weeks to see if the Democrats can move the bill.

001235

### III. ACTIONS REQUIRED:

Enter the Cabinet Room, go around the table meeting them (Harold Nelson, General Manager of Associated Milk Producers and David Parr are the two key "movers" although the Association President, John Butterbrodt will also be there. See Tab A for attendees). When you sit down, Secretary Hardin and Under Secretary Phil Campbell will be on your right and Mr. Butterbrodt on your left.

### IV. POINTS OF DISCUSSION:

You might wish to make an opening statement (see Tab B) and then toss the ball to Hardin.

Tab C is a Fact Sheet on the group prepared by Under Secretary Campbell.

*John C. Whitaker*

ATTACHMENT TO JOHN WHITAKER MEMORANDUMLIST OF KEY DAIRY INDUSTRY PERSONNEL  
TO MEET WITH THE PRESIDENTListed Alphabetically

Mr. Paul Affeldt, President  
Pure Milk Products Co-Operative  
Sparta, Wisconsin 54589  
608 269-4356

Paul Alagia, Esquire, Executive Director and General Counsel  
Dairymen, Inc.  
506 Portland Federal Building  
Louisville, Kentucky 40218  
502 585-4301

Mr. Melvin Besemer  
Route 1  
New Ulm, Minnesota 56073  
507 354-4404

✓ Mr. John E. Butterbrodt, President  
Associated Milk Producers, Inc.  
Route 1  
Burnett, Wisconsin 53922  
414 885-6076

Mr. Bill Eckles, General Manager  
Pure Milk Products Co-Operative  
500 North Park Avenue  
Fond du Lac, Wisconsin 54935  
414 921-4720

Mr. Don Gregg, Regional Manager  
Associated Milk Producers, Inc.  
Central Region  
1020 North Fourth Avenue  
Sibley, Iowa 51249  
712 754-2511

Mr. W. R. Griffin  
Route 1  
Newcastle, Oklahoma 73501  
405 778-3474

001236

ATTACHMENT TO JOHN WHITAKER MEMORANDUM

Mr. Carlyle Hansen, Regional Manager  
 Associated Milk Producers, Inc.  
 Northern Region  
 Box 455  
 New Ulm, Minnesota 56072  
 507 354-8854

✓ Marion Edwyn Harrison, Esquire *Chambers law partner*  
 Washington Counsel for Associated Milk Producers, Inc.  
 Reeves & Harrison  
 1701 Pennsylvania Avenue, N. W.  
 Washington, D. C. 20006  
 202 298-9030

✓ Honorable Patrick J. Hillings  
 Washington Counsel for Associated Milk Producers, Inc.  
 Reeves & Harrison  
 1701 Pennsylvania Avenue, N. W.  
 Washington, D. C. 20006  
 202 298-9030

Mr. Wesley Johnson, Executive Vice President and General Manager  
 Mid-America Dairymen, Inc.  
 1101 East University  
 Springfield, Missouri 65804  
 417 -881-8112

Mr. John A. Moser, President  
 Dairymen, Inc.  
 Route 1, Box 560  
 Louisville, Kentucky 40218  
 502 241-8281

001237

✓ Harold S. Nelson, Esquire, General Manager  
 Associated Milk Producers, Inc.  
 GPM Building, 4th Floor  
 San Antonio, Texas 78216  
 512 341-8651

✓ Mr. David L. Parr  
 Associated Milk Producers, Inc.  
 Box 9589  
 Little Rock, Arkansas 72209  
 501 562-1900



ATTACHMENT TO JOHN WHITAKER MEMORANDUM

Mr. Bill Powell, President  
Mid-America Dairymen, Inc.  
Route 1  
Princeton, Missouri 64073  
816 748-3101

Mr. P. L. Robinson  
Dairymen, Inc.  
Jonesboro, Tennessee 37659  
615 753-3386

Mr. Avery Vose  
Associated Milk Producers, Inc.  
Route 2  
Antioch, Illinois 60002  
312 427-2255 office

Mr. Frank White  
Associated Milk Producers, Inc.  
Route 2  
Cedar Vale, Kansas 67024  
316 758-3600

ATTACHMENT TO JOHN WHITAKER MEMORANDUMDepartment of Agriculture Attendees

Clifford M. Hardin, Secretary

J. Phil Campbell, Under Secretary

Clarence D. Palmby, Assistant Secretary

Richard E. Lyng, Assistant Secretary

William E. Galbraith, Deputy Under Secretary

001239

White House Staff Attendees

George Shultz

John Ehrlichman

Donald Rice

Henry Cashen

John Whitaker

ATTACHMENT TO JOHN WHITAKER MEMORANDUMOPENING STATEMENT BY THE PRESIDENT

Secretary Hardin has told me about great changes which have taken place recently in the marketing of milk. He has told me about your organization (Associated Milk Producers, Inc.). I am sorry I was unable to attend your convention in Chicago last year.

We are very much impressed with what the Associated Milk Producers, Inc. has been able to do in gaining bargaining strength for producers. Secretary Hardin has told me that a cooperative organization such as yours, through responsible bargaining, can be of tremendous value to producers and may even begin to minimize the need for so many government programs for the dairy industry.

001240

During the years I have been in Government, representatives of dairymen have kept me well aware of the heavy Government involvement in your business. Import quotas, price supports, special school milk programs, marketing orders -- all of these are of real concern to dairymen.

I know too that Secretary Hardin is particularly well equipped to assist dairymen with these programs. His early background as an agricultural economist was as a dairy specialist. As a matter of fact, I understand he wrote his doctoral thesis on milk marketing!

(At this point the President could turn to Secretary Hardin and suggest that he might elaborate on matters of current interest to the group)

ATTACHMENT TO JOHN WHITAKER MEMORANDUM

- 2 -

WHO ARE VISITORS?

The top executives of Associated Milk Producers, Inc., which is a huge cooperative from Minnesota through Texas.

Headquarters: San Antonio, Texas

They have been effective in bargaining for higher prices for producers and have been active in politics.

U. S. DAIRY INDUSTRY

No. of Dairymen: 1959 - 1,000,000  
1969 - 400,000

Production and Gross Income:

1964 - 127 billion pounds - \$5. billion  
1970 - 117 " " - 6.5 "

Consumption: Per capita consumption steadily declining

ADMINISTRATION ACTIONS FAVORABLE TO DAIRYMEN

1. Raised support price 1/1/70. \$1.28 to \$1.66.
2. President imposed import quotas on dairy products, early 1971.
3. President signed 1970 Farm Bill which contained improved Class I Base provision. (This was widely sought by all dairymen.)
4. President signed 1970 Marketing Bill which permits producer "checkoff" of funds for promotion of dairy products.

WHAT DO DAIRYMEN WANT?

001242

1. Increase in 1971 support price. Secretary Hardin, on 3-12-71, announced no change for this year.
2. Economic formula for pricing market milk - Producer proposal was rejected by USDA, but Secretary Hardin has said we'll try to work out acceptable compromise.
3. Continuation of Special School Milk (f.y. 1972) does not include this expenditure of \$100 million.

WH

TRANSCRIPT OF PRESIDENT'S PORTION OF TELEPHONE CONVERSATION WITH JOHN CONNALLY, MARCH 23, 1971, 10:16-10:19 A.M.

PRESIDENT. [Picks up telephone.] Secretary Connally please.

[Hangs up.]

[Telephone buzzes.]

BULL. Mr. President, Congressman [unintelligible] is here for 5 minutes.

PRESIDENT. Oh yeah. Tell Haldeman not to come in until—I just wanted to call [unintelligible] told Haldeman, I just, never—I just told Haldeman to come in. Tell him to wait.

BULL. Oh, I didn't realize it, sir.

PRESIDENT. All right, hold him. I'll just be a minute.

BULL. Fine, sir.

PRESIDENT. Hello. ["Yeah" in background.]

Yeah, I thought it was, uh, was very, very helpful for, uh, you to give those guys a good shot like that this morning. And as I, and I as I am sure you could see I was, uh, trying to shame a few of them a bit because—

Yeah.

Yeah. Well, uh, I, tell you that it's very tight in the Senate. It looks like we're about two votes short. Isn't that something?

Yeah. But it's, but for this country and what it is, it's, uh, almost a death wish isn't it? It's a death wish. They, uh, we, uh, we're afraid to do this or that because of, uh—well, it's a—as the country gets more and more intelligent, they get, uh, more and more fearful; and that's, and that's what happened to the Greeks, and what happened to the Romans, it's what's happened to the British, it's what happened, you know—that's what happens.

Yeah. Huh, well, it's a retreat from greatness, too. It's a retreat from leadership. Retreat from leader—but anyway, we're on the side of the angels, and, uh, and I appreciated your picking up and pitching. That's the way to do it, slug it right to them.

Uh hm.

Yeah.

Yeah. Well you've handled it all extremely well.

That's all right. [Laughs.]

Yeah. Yeah, the—don't worry. They, uh, they'll remember it. [Laughs.]

Yeah, at 10:30. [Telephone rings.]

Yeah. Yeah. They're quite a, quite a group.

Uh hm.

You're, you're, you leaning to, to the, [telephone rings] to do it this year?

Uh hm. Uh hm.

Huh.

Yeah.

Get out the argument that if you do it this year you raise the price and all that sort of thing.

Right.

Well, I'll try to, uh, be equipped for other things. He's going to, uh, meet with 'em at 10:30, and I'm going to try to keep—

Yeah. Yeah, but I want to be sure I don't, don't, don't cross the bridge today, that's what I mean, and I'm glad to talk to you about it. I didn't know that—

Okay.

Got it.

Um hm. Um hm.

Yeah. All right.

Okay.

Well [unintelligible] in there.

[Hangs up.]

Hello [unintelligible].

TRANSCRIPT OF MEETING AMONG THE PRESIDENT AND DAIRY  
REPRESENTATIVES, MARCH 23, 1971, 10:35-11:25 A.M.

PRESIDENT. Let me get around to say hello to everybody.

UNIDENTIFIED. All right. [Laughter.]

PRESIDENT. All 50 States. I know the answers [unintelligible].

UNIDENTIFIED. [Laughter.] [Unintelligible.]

PRESIDENT. Yeah, right. I know you've done a good—

UNIDENTIFIED. [Unintelligible.] Mr. President.

PRESIDENT. All right. It's good to see you here.

WHITE. Frank White from Kansas.

PRESIDENT. It's good to see you.

UNIDENTIFIED. Jim [unintelligible].

GRIFFIN. [Unintelligible] Griffin from Oklahoma.

UNIDENTIFIED. Mr. President, Mr. President, right back here are a couple of—

PRESIDENT. Oh yeah, yeah. Didn't mean to walk by you.

HANSEN, Carlyle Hansen, Minnesota.

PRESIDENT. Right, right. Boy, I know those two States. [Laughter.]

UNIDENTIFIED. [Unintelligible] from California.

PRESIDENT. You drink milk, don't you?

UNIDENTIFIED. Oh, sure. [Laughter.]

PRESIDENT. Well, good. [Unintelligible.] Wonderful time to leave, uh, you know, for that funeral for that, uh—

UNIDENTIFIED. Oh, yes, yes.

PRESIDENT [continuing]. Fellow, uh, Whitney Young. Great fellow.

UNIDENTIFIED. All the way from Kentucky.

UNIDENTIFIED. Yes, Mr. President.

PRESIDENT. Good to see you here. Good to see you.

BESSEN [sic] Melvin Bessen [sic] from Minnesota.

PRESIDENT. Yeah. Minnesota, [unintelligible]. I can tell the way you pronounce it.

UNIDENTIFIED. Right.

UNIDENTIFIED. [Unintelligible] of Texas.

UNIDENTIFIED. How are you?

UNIDENTIFIED. How are you? Good to see you.

PRESIDENT. You're one of our fellows.

BUTTERBRODT. John Butterbrodt, Wisconsin.

PRESIDENT. Yes, glad to know you. Good to see you. [Unintelligible.]

UNIDENTIFIED. [Unintelligible] Illinois.

PRESIDENT. Yeah, Illinois.

UNIDENTIFIED. Yeah.

UNIDENTIFIED. Right.

PRESIDENT. Les Arends' State. We just introduced [unintelligible.]

UNIDENTIFIED. Unless you—

PRESIDENT. Have you got any farmers in your district? Are you kidding? [Laughter.]

AFFELDT. Paul Affeldt [unintelligible].

PRESIDENT. Yeah.

BISHOP. John Bishop, Mr. President, Iowa.

PRESIDENT. Right, s—, good to see you. Well, we're delighted to have you all here. Would you all sit down. Sorry to have kept you waiting, but I had the Secretary of the Treasury on the phone, and, uh, Secretary Hardin and I had to talk to him about a matter that might involve agriculture in any way, you know. Consider some of those [unintelligible] and the rest, where you're fighting the good battle in the United States and for the ag—, agriculture community. Let me, let me start this meeting with, uh, with uh, with one, uh, one, announcement that may be of some interest to you. I, uh, first wanted to say that I have been very grateful for the, the support that, uh, we have had in this administration, uh, from this, group. Uh, uh, I know that, uh, in American agriculture this is the most, uh, widely, uh, recognized—it cuts across all of the farm organizations. It's representative of all the States. Uh, I know, too, that, uh, you are a group that are politically very conscious. Not in any partisan sense, but that you realize that what happens in Washington, not only affecting your business, but affecting the economy, our foreign policy and the rest, affects you.

And you're willing to do something about it. And I must say a lot of businessmen and others that I get around this table, they'll yammer and talk a lot, but they don't do anything about it. And you do, and I appreciate that. And I don't have to spell it out. Uh, my friend, uh, [unintelligible] and some others keep me posted as to what you do. The other thing I would like to say is that, that I, uh, I appreciate the fact that this group—definite Republicans, Democrats, in this, is, uh—and this may sound somewhat—the, uh—oh, in these days it is sort of unfashionable to talk patriotism and the rest, but I still do. Now this group is, uh, uh, is, uh—coming as it does—being sort of a bedrock, the heartland, as we call this America.

The heartland exists all over America, not just in the Midwest. Uh, but, uh, that you, that you, have such a strong, deep, uh, commitment to this country for what, what is stands for. Uh, that and, and, and, the thing that—in many, many ways, all this I appreciate. That's a part of it, in fact, that, that, uh, we, we have s—, immediate problems of great concern to you. But [unintelligible] I've been trying to say in a nutshell is this: That, uh, a great segment of agri—, agriculture has done an enormously effective job. Its, its productivity, and, and the quality of its product, et cetera, for America, for American consumers. And for that matter, for the world. But beyond that, uh, this group also has done a job far, uh, uh—going far beyond it. Uh, it's done—you, you've stood for those things that, uh, are deeply needed in this country today. And, uh, you may next, perhaps, uh, you are a relatively small group—I just want you to know that in this, in this office, that kind of commitment, that kind of support above partisanship, this is something that I am deeply grateful for. Uh, now, with regard to another thing, I, I, uh, missed your meeting in Chicago last year, as you are aware. In fact, uh, the Secretary gave a message. But, uh, I want you to know that I have talked to our—

UNIDENTIFIED. Mr. President?

PRESIDENT. In fact, that's the Vice President's chair. That's the hot seat. [Laughter.] And, uh, you're in—the Secretary of, uh, Defense, uh, belongs here. Attorney General, uh, let's see—that's as far as we better go. We don't want to get into that. Anyway, uh, I missed your meeting in Chicago but, uh, Cliff, uh [unintelligible] about the possibility of your next meeting. And I want you to know that, uh, at your next annual meeting, since I missed the other one, that, I, uh, I'm going to do the very best I can, lacking some kind of a foreign trip, or something, to come to it. I'd like to—I think that, one, you can't do each of these meetings each year, but, uh, one of the years while I'm in this office—this would be a pretty good year, since it's a nonelection year. And uh, I'd like to, uh, meet with your [unintelligible] I won't talk too long. I, uh, did want to just discuss with them some of these general thoughts that I have expressed to you today. So with that introduction, uh, that I, throw the ball over to Cliff Hardin. And, uh, Cliff, uh—you then may want to throw the ball back across the table. We are really interested in hearing what your views are. Uh, we've got many decisions at the present time, as you know, of, of the [unintelligible] made regarding imports, with regard to the, uh, price supports, and all the rest. And [cough] so, uh—

HARDIN. Well, maybe I should just make a statement, Mr. President.

PRESIDENT. Yes.

HARDIN. That, that kind of shows you where our, our differences are. We do have a couple, uh—I don't think there's any quarrel at all in what the facts are, uh, where we are on milk production, and, uh, consumption—these sorts of things. The situation needs to be resolved. I am told they did raise the support price of milk, uh, uh, on a more conservative range before, at one time, and you did so at that time for good reason. Uh, production was dropping; uh, it looked as though consumption might pick up a bit. And, knowing that the dairy industry is a business in which it is hard to get in and out, uh, quickly, uh, we were a little concerned that we might be short of milk by the middle seventies, and that we'd better move. Well, it did work, uh, or something worked. Uh, milk production did increase a bit. Uh, I understand it is too soon to tell whether this is a new trend or, uh, how long it will last, but the facts are that milk production is running ahead of a year ago. Uh, total consumption last year was up a little, uh, per capita consumption down a bit. And the, uh, [unintelligible] had to buy to support the price. The cost of that is a little higher this past year than the year before. Now, that's not the real issue. The real issue is, in my mind, uh, whether

we dare to raise the prices, uh, which eventually results in some increase in the retail level. Uh, maybe not immediately, uh, because they're, they're drafted at market price above supports now, uh, just a bit. Uh, but, uh, uh, there is a point in these agricultural commodities where we don't control supply. Uh, where you can push over the hill. Where total returns start reducing if you boost the price up. And, uh, no one can prove whether we're at that point or not. It's a matter of judgment. And I think that's where our differences have, uh, come. We have talked to these men, that, uh—this is a time when I think we have to be statesmen. We have to look at what's best for the man that's pulling the teats out on the farm, if I can use that old expression.

UNIDENTIFIED. You do it with machines.

HARDIN. And, uh—

[Laughter.]

PRESIDENT. I know something about that.

[Laughter.]

UNIDENTIFIED. [Unintelligible.]

HARDIN. But, uh, that, that's the issue. I think we'd, I'd like to hear these men—

PRESIDENT. Right.

HARDIN. Speak up, uh, to us on, on the point.

UNIDENTIFIED. Let me say that I, Harold and I stated earlier, so—

PRESIDENT. That's, that's really it, that's where—Cliff's really trying to get to do the right thing. In other words, the point is, the, you can get, uh, if you can get the, uh [unintelligible] come up with, you get the, uh, price too high, you get a situation there, you're—It's down, it's—Drop off something drastic, and, and, and, uh, so we'd like to know your views.

NELSON. All right.

PRESIDENT. We will go around the table and tell us what you want.

NELSON. First, Mr. President, uh, on behalf of all these gentlemen, I want to, uh, thank you for the opportunity. We're honored to, uh, to be here, and we know how busy you are, and, uh, we're deeply appreciative of the opportunity to be heard by you. Uh, these gentlemen all know, uh, while, uh, many people in agriculture don't think of you as having, uh, agricultural background, they all heard, uh, what you told me on the telephone talking to me at our meeting about the fact where, uh, [unintelligible] Congressmen [unintelligible] problem agricultural area. That, uh, you're deeply aware of the, uh, economic, uh, importance of agriculture and that you have an unsullied track record in support of, of, uh [unintelligible] agriculture. They all know that.

PRESIDENT. My mother and father are both from Indiana—one from Indiana and one from Ohio.

UNIDENTIFIED. Oh.

PRESIDENT. And finally when they retired they went back to the farm, and so I have a little bit of agriculture background.

NELSON. So at least you see—you've seen something of the farmer. Uh, and the Secretary is, Secretary has stated, he is, uh—We have no quarrel, uh, as to data, and, uh, it's, uh, strictly, uh, a matter of judgment. We have had an opportunity fully to discuss our views of—with the Secretary. Uh, some points, uh, we have tried to reach, the points with which we, uh, assume are of concern to you, uh, we wish to, uh, tie this case right up to them. Uh, number one: [clears throat] affect on, uh, consumer prices. Well, with response to that, it's different. Uh, the, uh, level of receipt is really, uh, a market level at this time. And, uh, in our view it wouldn't set, uh, involve any increase in consumer prices. Uh, although we know that it's inevitable there will be an, an—press even based on this, uh, uh, existing immediate situation there have been some increases in consumer prices of milk. And, and, uh, of course, uh, we know some more of that'll be the involved, uh, due to inflationary forces—which we are well aware are not your inflationary forces. Uh, number two is for the need, uh, insofar as farmers are concerned, uh, I, I think that's pretty well, uh, uh, irrefuted. The, uh, feeding-milk ratio is the lowest it's been in 10 years. The cost of labor, machinery, uh, fuel—everything that farmers use to, uh, that is involved, uh, in, uh, production of milk—uh, it's, uh, has increased, and is increasing and they are in a real, real bind. Uh, and it's our view that irreparable harm could result unless, uh, action is taken to at least try to maintain a status quo, uh, on this now. Mr. President, we know that, uh, all the—everybody here is your friend.



And, and, uh, I know you know as we know that sometimes it's hard to convince a friend that what you're trying to get him to do is, uh, good for him, but that's the posture that, uh, we come here in. Uh, [clears throat] the, uh—not setting the support at, uh, approximately 85 percent our figures, uh, show, would result in, uh, decrease in income to dairy farmers of \$500 million. And, uh, the, uh, cost to the Government [clears throat] of uh, setting at that figure would be an increase of \$30 million to \$35 million. So, the arithmetic we like to use on it is that if you take 20 percent of \$500 million, you've got a half, uh, you've got a \$100 million. And so, uh, in that view we feel that the net cost to Government would be actually no cost, and, uh, a gain. Uh, another thing, uh, that, uh, is of concern to us, as your friends, is that, uh, the timeliness of the action. Uh, we all know that sometimes if action is delayed, it's not appreciated as it would be if it's taken in a timely manner. And, uh, that pretty well, uh, sums the, uh, thing up, uh, as concisely as I know how, insofar as our position, uh—

PRESIDENT. Let me get this, uh—[coughing] this is, uh, this is, uh—the real point, the real point is this: What we put—say that the, uh, the raising the thing to 85 doesn't bother me a bit.

NELSON. Yes, sir. Yes, sir.

PRESIDENT. The question is, how are you going to look a year from now? Now, does anybody have any other view on this? Is this the unanimous view? I, uh—See, that's the concern that, uh, has been expressed as to whether or not if you, you go that you are going to 85 [unintelligible] said that the figure in those terms would—

UNIDENTIFIED. Yes, sir.

PRESIDENT [continuing]. Mean the budget probably work all at the same salary. That they're hard—

UNIDENTIFIED. Yes.

PRESIDENT. But it can be done. But the main point is, what is it going to do in terms of, uh, of encouraging overproduction? Isn't that really what you're talking about? And that produces uh, uh, uh—Phil, you want to say something?

CAMPBELL. Sure. The figures actually show, of course Harold knows these figures, and I think most of the rest of them do around the table. And, this is of greatest, greatest concern to us, uh, to our office, because here and there for a year or so of Secretary Patterson, the price was raised, and then immediately it, it, it had to be reduced. It was reduced because of a big increase in production by about 5 billion pounds, and prices were reduced from \$3.85 a hundred in 1952 and 3, down to \$3.15 in 1954 and 5, which is a 70-cent reduction. The same thing happened again, and, uh, when Secretary Freeman came in a few years later. The price was raised up to a high of \$3.40 in 1961-62. The production was its very height of a 126 billion pounds and then the support price had to be dropped back to a low of \$3.11, which is a drop of 29 cents a hundred. Well, now this is the past history. This is what we look at. Uh, if we knew it wouldn't stimulate milk flow and it wouldn't go on back up to a 120, 122, 123, 124 billion pounds, I don't think anybody would have any argument as to what would occur. But, and we don't know and we frankly don't think you people can know, either.

NELSON. All right.

CAMPBELL. [Unintelligible] because we think everybody is in a, in a, in a vacuum here as to the point the real situation is. Because we did have a turnaround. Now, I'm not convinced this is a true turnaround personally, although we have an increase of a billion pounds, because we did have a reduction in cow milk, still, last year and I don't think—

PRESIDENT. Uh, uh, a reduction?

CAMPBELL. A reduction not only in milk cows—

UNIDENTIFIED. [Unintelligible] total numbers—

CAMPBELL. So we don't really, really—I think the increase is a result of, of, milder weather in the winter time which has quite a lot to do with production, Mr. President. Now, mild winter, you get much better milk flow than you do on a very severe winter.

PRESIDENT. Yes.

CAMPBELL. Well, in the previous winter, there had been a very severe winter. Last winter was a mild one, and then the problems of forage and and feeding and so on.

PRESIDENT. So that, so there's, there's another thing we can focus on.

CAMPBELL. Yeah. Yeah, and, uh, but, uh, we don't know that this is a real turnaround, because the conscious decision of dairymen to increase, uh [un-

intelligible]. The, uh, so that, that, really is, uh, is, uh, where we, uh, we're in the dark and we felt as though a little bit more time should be given to find out if this is a real turnaround, because if we were to raise the prices up to about \$5 from the present \$4.66 and we were to jump back up to a 120, 123, 124, or 125 billion pounds, well, we would have—unless per capita consumption increased, unless increasing population took it up in the marketplace, the same amount of milk that cost \$600 million in 19, uh, 62, would cost close to a billion dollars because of the difference in price was just about \$5 instead of just over \$3. Uh, and, uh, this is, this is, a matter of real concern that, that we have. We are just in the dark. If this is not a real turnaround, well, we still got room to raise prices.

PRESIDENT. All right. Who'd like to talk?

HARRISON. Mr. President, these organizations which are, have discussed with my clients represent about 80,000 dairy producers. First thing I had to learn when they came to us was that the producer is not the cow, but the farmer, so I've had to learn a lot since then. We think that under the base plans which your administration has been so helpful and the Secretary of Agriculture so helpful to promote it, plus the new promotional legislation which permits money to be spent for certain types of promotion, which your administration also has enthusiastically supported. That so far, except the last week or two, there has been almost nothing that the dairy industry has wanted that this administration has not been pretty enthusiastically for. Uh, the combination of those factors plus the turnaround the last two quarters for last year—putting the two together, the dairy industry is doing a more effective job than it's ever done before in controlling production. But, I suppose as a lawyer and sitting in the Attorney General's seat I'd have to say that there, that, uh, Secretary Campbell is right to this extent, there's nobody that can absolutely swear on a stack of Bibles and absolutely guarantee that this turnaround might not be permanent, because—

PRESIDENT [Unintelligible.]

UNIDENTIFIED. We don't know absolutely for sure.

HARRISON. That's right.

UNIDENTIFIED. No—

HARRISON. But, uh, Mr. President, the odds are that it will.

CAMPBELL. But the weath—Mr. President, the weather will even out. The weather is not—that's the great factor.

PRESIDENT. Yes.

CAMPBELL. It will not stimulate total overproduction.

PRESIDENT. That's just—check first.

NELSON. But, uh [clears throat] the analysis being made are the same people who've been right now, seven years in a row. Uh, in any case that, uh, that, this is not a turnaround. That's their projections. And, uh, we have been right—I mean they've got an enviable track record, that this is not, uh, a turnaround. And, uh, as they, uh, I forget whether it was Secretary Hardin or Secretary Campbell, I believe it was Secretary Campbell, pointed out that, uh, there has been a turnaround in total, uh, consumption. I mean there has been, uh—

PRESIDENT. Right.

NELSON. A change for the better.

PRESIDENT. Yeah.

[SEVERAL VOICES]. Yeah.

NELSON. There is—now, I don't say that's a turnaround, either.

PRESIDENT. More, more consumption.

NELSON. Yes sir, and, uh, as Mr., uh, Harrison pointed out, uh, we, uh, we do have the means now to do more about controlling consumption with, uh, production, with this base plan legislation, under this [unintelligible] legislation. Over a six-State area of this organization, we have voluntarily invoked base plans which have demonstrated the ability to tailor production to the consumers it meets. Now, this new legislation we feel we can spread to these other areas so we have that going for us that we hadn't had before. We have one additional item which is very close to the Secretary's, uh, heart—I'll use a more better term, which will be acceptable to him, and that is, this promotion legislation. Uh, this route has demonstrated this. He says 80,000 dairy farmers representing 30 billion pounds of milk, is willing to spend money for promotion. And we're now embarked upon a program developing a promotional and marketing program that are tied together which is the first time this has ever happened. But, if we're going to be able to take the money to do this, we've got to get it at a time when

we are at least holding our own, and not in a time of falling, uh, uh, regarding land prices.

PRESIDENT. Yeah, one thing about that I insisted—a little aside—is that, uh, the, uh, the, to get the, uh, I don't know what, what can be done about it, but the medical profession don't really know much about cholesterol. Uh, that you're being a little more cooperative, talking about it. I mean that's—if you fix a glass of milk and have a heart attack; well, I can think of a lot of other things that's going to give you a heart attack. A lot sooner, too.

[Laughter.]

PRESIDENT. But, uh, incidentally, I, uh, do happen to drink a lot of milk. Well, but, uh, uh,—what, what's the medical profession doing in that respect?

NELSON. Uh—

PRESIDENT. There is cholesterol that goes up and down, you know. They say, "No eggs, no milk, no [unintelligible]."

UNIDENTIFIED. Now—

PRESIDENT. They're not sure.

UNIDENTIFIED. Yes.

PRESIDENT. Cholesterol, as you know, is related to stress, it's related to—you, you'll have to test made one, uh, one week, or, uh, above normal, and next week, uh, [unintelligible] be below, which, uh, uh, maybe you were drinking the things that were, other people drink here, uh—

[Laughter.]

NELSON. We've had some breakthroughs on research in the last six months. It, uh—for the first time it appears to be, uh, uh, favorable [unintelligible] reports and so on. And I've just formed a new organization that has, uh, widespread support among the producer organizations, that is, uh, providing research money. And we're talking about basic research, pure research, uh, for the first time, which we—

PRESIDENT. You are?

NELSON. Yes, sir, yes sir, yes sir; we are. For pure research. And, uh we feel that this can't help but, uh [unintelligible] and good results.

PRESIDENT. You've got one point. It's simply not to get into your business at all, but, uh, in your promotion, every—everybody is going for gimmicks these days, you know.

NELSON. Yes, sir.

PRESIDENT. Take, take sleep inducers. Now, uh, uh, an article in Reader's Digest a couple of months ago in regard to sleeping pills—chromous use of them—but, but almost any, any, uh, person who really studies sleep will tell you probably that, that, that lacking a pill—I mean which some, which has side effects, which many times are not [unintelligible]—the best thing you can do is milk. Any kind of thing, you can just, just a glass of milk. You don't have to talk with it or anything like that. It could be warm. It could be, uh, tepid, or it could be cold, but, uh, but it has a certain soothing effect. Uh, you get people started on that.

UNIDENTIFIED. Well, that's—

PRESIDENT. And that's, that's my marketing picture.

[Laughter.]

UNIDENTIFIED. It didn't help sleep yesterday.

PRESIDENT. I already got that. [Laughter.] Look, but let me tell you that the sleep problem is, of course, the it's, uh it's, uh, an American psychosis at the moment. In all advanced societies, over 50 percent of the American people that are adults, uh, at this time take some form of sedative. Uh, now, here's, here, here's here's the mountain. You can go to work all the time, maybe—if some—sometimes you've just got so many problems you're not going to sleep. But, that's all psychological, too. If you get people thinking that a glass of milk is going to make them sleep, I mean, it'll do just as well as a sleeping pill. It's all in the head.

GRIFFITH. Mr. President?

PRESIDENT. Yeah.

GRIFFITH. Speaking as a dairy farmer, the difference in this \$4.66 and the \$5 is just about your breaking point as to whether the average dairy farmer in Oklahoma makes it or doesn't make it. Now, uh, I believe that I'm as familiar with dairy operations as anybody in the State of Oklahoma. Uh, in fact, all of the farm programs we've had over all these years. But, we're a unique bunch of people, the dairy farmers are, uh—we started out back when we could just use 10-gallon cans and an old cooler and get by. Mr. President, that doesn't exist

today. The, the inspectors say you have to have tile walls. You got to have the latest equipment. Uh, you're talking about, uh, in our loan corporation—I was looking the other day—in our average size loan to dairy farmers today is about \$39,000 loan. [Unintelligible.]

HARRISON. [Unintelligible.] That's a loan corporation that's owned by the farmers.

PRESIDENT. Sure.

GRIFFITH. Look, those farmers can't—

UNIDENTIFIED. Co-op.

GRIFFITH. Mr. President, but, but, we're—I'm, really conscious of this thing because I'm the fellow that, that approves those loans and I can see this gradually growing. And, uh, I, I, can see the, Mr. Secretary's, uh, problem here of, if you just knuckle down with it—cost us—and not make us any money. If we had bigger farmers that has to make  $x$  amount of dollars, and if he gets a higher price, he'll take those dollars or if he doesn't get a higher price he's going to fix you enough milk out there to get them anyway. So it helps both ways. But, I, I can see his point, but you can, if you got to have so many dollars and it takes more pounds to get it, why, he's going to produce those pounds, Mr. President. And that, and that's—

UNIDENTIFIED. Based on a short [unintelligible] basis.

GRIFFITH. Right, but I'm talking from a—you've heard these professional people, but I'm talking from, uh, from a dairy farmer because that's exactly what I am.

UNIDENTIFIED. Would you say you would not milk any more cows than necessary. In other words, you don't milk an extra cow just because you like to.

GRIFFITH. You, you would, you don't, you're not looking for a job, I'll tell you.

UNIDENTIFIED. I think that's the point. What is honest.

UNIDENTIFIED. Yeah, what could they do.

UNIDENTIFIED. Make it again. You mean that, uh—

UNIDENTIFIED. I think the whole point in this is that dairymen, because of inflation, a necessity of certain return of income—he's looking for so much.

UNIDENTIFIED. Gross.

UNIDENTIFIED. He's not milking gross. He's not milking additional heads of cow just because he has a love for the dairy industry cow.

PRESIDENT. OK.

UNIDENTIFIED. Although he does have a love.

PRESIDENT. But, uh, so you're—Are you suggesting then that a raise in the price in, in the support is not going to mean, uh, necessarily—

UNIDENTIFIED. We don't think it'll mean necessary to the increase, because he has judgment.

PRESIDENT. Yeah.

UNIDENTIFIED. And I'm—

PRESIDENT. Sure, sure, sure.

GRIFFITH. But, uh—

PRESIDENT. Really, what we'll really get down to here is psycho—is, is psychology.

UNIDENTIFIED. Psychology of it.

PRESIDENT. Isn't it? And that's something.

UNIDENTIFIED. The dairyman today has changed.

PRESIDENT. You fellows know more about that than we do.

UNIDENTIFIED. The dairyman today has changed over years ago.

PRESIDENT. Your, your judgment on the psychology is that he is likely not to, to yield production.

UNIDENTIFIED. Absolutely.

UNIDENTIFIED. Yeah. He isn't one of them.

PARR. People around the group—we're in about 125 different organizations.

PRESIDENT. Uh hm.

PARR. They consolidated now just recently. I mean, this is the last 2, 3 years.

PRESIDENT. Yeah.

PARR. This 80,000 are now—we're at one time 120 different board of directors.

PRESIDENT. Yeah.

PARR. We just got together. Now, uh, as, as you say, uh, as somebody said—as Marion said a while ago that, uh, this administration has been, uh—we publicized this, uh, uh—You've been one of the best administrations we've had. Just

put it plain. I come from long roots Democrats, as you well know, from Arkansas. I'm just being very frank about it. But, uh, this, uh, we got, uh, more—

UNIDENTIFIED. There's some hope for him, Mr. President.

[Laughter.]

UNIDENTIFIED. Not much.

PARR. I was also campaign manager for John Paul Hammerschmidt.

UNIDENTIFIED. Yeah.

PRESIDENT. That's right.

PARR. In the third dis—district. And the point here is that all of a sudden we get together and ride them real good, and, uh, boy, this, this should be a real terrific blow. We're trying to get in a position of self-help.

PRESIDENT. Uh hm.

PARR. Which we're doing.

UNIDENTIFIED. We're close to it.

PARR. We're closer to it than we've ever been.

PRESIDENT. Self-help.

PARR. Self-help it is. We, we eliminate the, uh, our, our dogmatic type of position of fighting one another.

PRESIDENT. That seems important.

PARR. And, and the, and the—

PRESIDENT. Yeah.

PARR. Support program we want to get in position so we can run our own self-help support program.

UNIDENTIFIED. Right.

PARR. [Unintelligible] sit there and get it now, that we talked about it before. And, uh, so we get all these organizations together and, and here we are. And costs are still going up, and, and all of a sudden our—starts with these people start looking up, say, "Well, what happened to your—what happened?"

PRESIDENT. Um hm.

PARR. Then we're, then our organization structure, an organization structure, we cannot get it all, uh—we can't keep on moving toward it, see, by consolidating, getting ourselves—eliminating our inefficient plants like we're doing right now.

UNIDENTIFIED. [Unintelligible.]

UNIDENTIFIED. Right.

PRESIDENT. When you say eliminate your, uh—tell me about that. Do you—how do you do that?

PARR. Well, see you've got—

PRESIDENT. How do you get—do you, your members do that—

PARR. No.

PRESIDENT. Or—you can't tell a guy to—

PARR. Oh, no, no. What I'm talking about is a milk plant, say, in Minnesota. You got one every 7 miles.

UNIDENTIFIED. Manufacturing plant.

PARR. Manufacturing—

UNIDENTIFIED. Owned by processors.

PARR. Owned by processors.

UNIDENTIFIED. They're owned, they were owned by co-ops.

UNIDENTIFIED. Co-ops. Farmer owned.

PRESIDENT. I see.

NELSON. And it's a very inefficient thing, see, because they don't have volume, uh, to do it.

PRESIDENT. So how do you, how you do get that done?

PARR. We, we, we put those consolidations together. We say, "Okay, you were 'x' cooperative and you [unintelligible] percent to this plant, and now we're all together, so there's no use of having that plant anymore. Let's cut that volume over here at another town."

PRESIDENT. Um hm.

PARR. And make it—So we do that, then we raise the productivity.

PRESIDENT. Um hm.

PARR. Of our own opera—uh, ability to pay in a cooperative, see.

PRESIDENT. What—why are—You're able to do that now because you've brought the organizations together.

PARR. Right.

UNIDENTIFIED. Efficiency.

PRESIDENT. When did the organizations—when were they brought together?

PARR. Last year.

PRESIDENT. The last—

UNIDENTIFIED. Two years.

PRESIDENT. That's quite an achievement.

PARR. It's not an experiment.

UNIDENTIFIED. [Unintelligible.]

UNIDENTIFIED. Don't say that while I'm sitting here.

PRESIDENT. Oh, I won't go that far. [Laughter.] Matter of fact, the room is not taped. [Laughter.] Forgot to do that. [Laughter.]

UNIDENTIFIED. Mr. President, I think probably so far as experience is concerned, I've had about as much in the dairy business as anyone. I was born and raised there and haven't been away from it since. And, I think I know what dairy farmers are thinking and I think I know what kind of a job it is to get information, communicate with dairy farmers. As it's been mentioned here we have done remarkably well during this administration getting the, uh, checkoff programs as we call it, for advertising, promotion, and the, and the class-one base plan. Now, these plans. We want to augment them we want to put them into, into force. But as long as these dairy farmers feel that the price of milk is declining and, uh, going down, it's going to be difficult to sell them and use these programs that we've already gotten you, ya, yeah, by working with the administration—the administration working with us. Uh, these dairy farmers are not a peculiar lot, or anything like that. They're just good businessmen. They live it 7 days a week, 16 hours a day. And I, I think that, uh, with all due respect to the economists, uh, they have overlooked a lot of things in the economy because I come up through a period when they said: "Well if you get \$4 a hundred for milk they'll get it on the rocks." Well, they didn't, because people went into other activities, occupations, because they don't like these hours. And unless the individual is dedicated to the dairy business, he's not going to stay there that way. Now, I'll admit that, uh, the increase in prices—I mean the, uh, increase in production is going up to, uh, prevalls now and that, uh, it's a matter of facts and figures, beyond a doubt, but that it's going to influence things that much. Experience has taught me you just don't do it.

ALAGIA. Well, another point, Mr. President, is that in the Southeast with these, uh, dairymen, here, uh, uh, they're very conscious that they're uh, uh, caught in this inflation which is not, certainly yours. And, uh, uh, their—

UNIDENTIFIED. [Unintelligible.]

ALAGIA. Costs are up and, uh, yet their prices, uh, uh, are now, because of support, are going to be going down. It will cost them uh, uh—well, they're just going to lose ground and they're going to be, uh, to put it, uh, brutally frank, I'm satisfied that there'll be more dairymen going out of business. That's for sure.

PRESIDENT. What part of the Southeast are you referring to? The Georgia, South Carolina—

ALAGIA. Kentucky.

UNIDENTIFIED. Tenne—, Tennessee.

ALAGIA. Virginia.

PRESIDENT. Kentucky.

ALAGIA. Mississippi, Louisiana, Alabama.

UNIDENTIFIED. Delaware.

ALAGIA. Georgia.

UNIDENTIFIED. Tennessee.

ALAGIA. Tennessee. Uh, and uh—

PRESIDENT. That's uh, that's pretty, pretty heavy milk producing area, is it not?

ALAGIA. Well, we have—It's approximately about, uh, 6 million pounds of—we market a year, in Dairymen Incorporated. And there's about 14 or 15 billion Grade-A pounds in the Southeast. Uh, and, uh, we're satisfied in our judgment, as well as in the judgment of these other men at the table, that, uh, uh, production isn't going to be, uh uh, going, uh—It is not going to be on the increase.

PRESIDENT. Let me ask you, uh, let me, come to the key point. Suppose it does? Let's, uh—What, what do you think you'd do then? What?

ALAGIA. I, I think, Mr. President, in the, uh, in the latter part—

PRESIDENT. [Unintelligible.] Wouldn't you hate to have to do something next year?

UNIDENTIFIED. I think the dairymen will take care of themselves.

ALAGIA. I think we can take care—

UNIDENTIFIED. They'll take care of themselves.

UNIDENTIFIED. Base plans—

UNIDENTIFIED. Individually.

UNIDENTIFIED. We have to put your base plans in [unintelligible]. This is the self-help, that, uh—

GRIFFITH. Mr. President, we have in Texas, Oklahoma, Arkansas and part of New Mexico base-plan now [unintelligible] the total net transaction in Kansas is total net [unintelligible].

PRESIDENT. Yeah.

GRIFFITH. But, but it's, uh, doing an excellent job and, and that's the point that we are getting over when we get over this hump, that's exactly what—We don't want no hand out, uh, we want to control exactly what the consumer needs and that's all.

NELSON. And, it'll give good—Uh, I think it's utterly, uh, uh, I think everybody would have to agree it's utterly impossible to, or, uh, unthinkable that production would turnaround so dramatically as, uh, to create problems by next year.

PRESIDENT. Let me ask—Uh, uh, [unintelligible] the problems create [unintelligible] next year. I wondered what process were, was available. Uh, you, you really mean that your organiz—that you were so well organized that you think you might be able to, uh, do something.

SEVERAL VOICES. Yes, sir. Yes, sir.

PRESIDENT. And you couldn't have done that, say, when, uh, Ezra Benson [unintelligible].

UNIDENTIFIED. [Unintelligible.]

UNIDENTIFIED. No, not, uh, when Ezra Benson or [unintelligible] Orville Freeman.

UNIDENTIFIED. [Unintelligible.]

PRESIDENT. Why, this is very important, that's why—What are y—Uh, this, this is, uh, this means, uh, uh, a new back to the, uh [unintelligible] did not have before.

UNIDENTIFIED. Yes, that's correct.

UNIDENTIFIED. Uh—

GRIFFITH. Mr. Secretary, I'd like to say that this—What you just said [unintelligible].

UNIDENTIFIED. [Unintelligible] not the Secretary [unintelligible].

UNIDENTIFIED. I'm sorry.

PRESIDENT. [Unintelligible.] Yeah. Excuse me. Go ahead.

UNIDENTIFIED. No, that's, that's, uh, uh—

PRESIDENT. You did—I did—I didn't realize though that you—You really think you can—

UNIDENTIFIED. Yes.

UNIDENTIFIED. They demonstrated in, uh—

UNIDENTIFIED. [Unintelligible.]

PRESIDENT. Go ahead.

UNIDENTIFIED. No, I was just going to say, you talk about this psychology—

PRESIDENT. Yeah, that's really it.

UNIDENTIFIED. Yes. We've got the response—

PRESIDENT. The individual person, who is the free enterprise system.

UNIDENTIFIED. Right.

PRESIDENT. The guy [unintelligible]. He's going to go breaking out there. Uh, like, for example, I've been—Well, uh, I tell you we're talking about inflation out there, you know. You know, one of the basic causes, one of the major, uh, uh, leaders of the inflation—the construction trade. I had to take a very hard decision [unintelligible]—

UNIDENTIFIED. Right.

UNIDENTIFIED. Yes, of course.

GRIFFITH. Right.

PRESIDENT. The other day. All right, it had to be done, because they had a 22-percent increase since last year. And so, uh, these are my good friends, too, believe me—those construction trade. My, my o—, my old man was a carpenter—I, I respect those guys. They're, they're carpenters, and the painters and all those—they're good Americans, and decent people, but some of their leaders went too far in this thing, and now they priced themselves out of the market. So, now we're getting them together. We're saying, "Look here." Because what this, this Davis-Bacon thing in effect said to them that as far as the Government's \$14 million worth of contracts are concerned, that we will not be bound by a law passed in 1933 that requires us to go to a union contractor. We will go to a nonunion contractor because the union contractor has priced himself out of the market. Now, so therefore, it has an enormous wobble. Now, the—so, what hap-

pens is these guys are all sitting down. The problem they've got, the problem they've got gets back to the psychological. The problem they've got—it's not—and, uh, I sit, I sit around with their national leaders here, but they got local leaders, and others that say, "Well, gee, I can't speak for that fellow—oh, oh, that guy up in New York is too tough. That fellow in Kansas City, Kansas City one was too tough"—the Chicago one, the Omaha one. Now, the real question that I am asking here is quite fundamental is whether you fellows will be that, that, I mean, you've got that kind of cooperation.

UNIDENTIFIED. Well—

PRESIDENT. Do you want to talk about that?

UNIDENTIFIED. Yes, I, I, uh, we're, uh—what you're looking at here is, uh, in this group, uh, dairy farmers, about 20 States, and most of the heavy, heavy milk production areas, I guess, except out on the west coast.

PRESIDENT. They're in part of your organization, aren't they? The west coast?

UNIDENTIFIED. No, no.

PRESIDENT. They're not?

UNIDENTIFIED. Not yet.

UNIDENTIFIED. Not yet. [Laughter.]

PRESIDENT. Why do they keep you, I mean [unintelligible] get lawyers from the Midwest?

UNIDENTIFIED. We're working on it, Mr. President. Two year, uh, profits, the 2-year profits of California that, uh, make it difficult at this stage to bring them in. [Laughter.]

UNIDENTIFIED. Mr. President.

UNIDENTIFIED. I don't think he bought that.

PRESIDENT. Oh, I understand. Oh, that's right. California—there is a problem. I know Land-o-Lakes. Go ahead.

UNIDENTIFIED. Yes; they do.

PRESIDENT. I know, I know the difference. [Laughter.] Let's get your view.

UNIDENTIFIED. But, but I think the psychology that you're talking about, uh, is important.

PRESIDENT. Yeah.

UNIDENTIFIED. And I think it needs the organizational structure that we now have, plus what is on the drawing board for continuing this consolidation move. Uh, that we can be, uh, the spreader of this psychology as far as dairy farmers are concerned. Uh, there's, uh—We have this authority as far as the classical need for it, you give us. The other thing that's going on in the, uh, nongrade-A statement of this dairy industry is that we have, uh, standards that are being imposed on these dairy farmers at the farm where they're not going to be able to produce milk in the barnyard, under a shade tree. Going to have to have facilities. So, they're going to have to make a decision, many of these 10-, 15-cow operations, as to whether they're going to be a dairyman or not when these standards are imposed. And many of them are going to get out. They're going to say my age is such, the average age is about 56—He's, he's just going to get out of it.

PRESIDENT. Sure.

UNIDENTIFIED. Mr. President, here's what the real catch to it is. You ask the question: "Can—Do we have the organization to put base-plans in?" Uh, uh, the big challenge here is, if you challenge us, you say "Yes," but you reconsider this idea of proprietorship and at at same time you've got to be told that production, that we don't want to drop—doesn't do much in 1972. The answer is an unqualified "Yes." If we move it up to a hearing immediately the cooperation of the administration and [unintelligible] from the Canadian border to the Gulf of Mexico right down through the, the middle part of this country plus the Southeast. That, we got the capability of doing.

NELSON. That's demonstrated, uh, Mr. President, uh, I want to repeat. Uh, we demonstrated our ability to do this and in six States plus the States—

UNIDENTIFIED. Right.

NELSON [continuing.] That he just referred to. And you may wonder, well, you sold farmers on this, uh, uh, idea, No. 1, because it works in their best interests. But No. 2, this base immediately becomes worth money to them. The base that they hold. They, they increase their capital, uh, worth, by many cows. To do this—

HARDIN. Uh, there's a little problem there. It's, it's—you create a value by government order.

NELSON. Well—

HARDIN. And, uh, in a sense.



NELSON. Yeah. Well, not when you, uh, uh, well, you may say that, but of course, we've had them, you know, on these States we're talking about now without Government orders within regulated areas for the Government, uh, uh, where you have Federal orders. And, uh, uh—

HARDIN. Yeah. We, we, we do have some protection in the law—

UNIDENTIFIED. Yes.

HARDIN. On them against this [unintelligible] risk.

CAMPBELL. Yes, you might get it.

UNIDENTIFIED. Right.

NELSON. Yes, there's, uh, so, uh, I, I, I, I really don't view that as a problem. I'd say that the, uh—illegally—we think, that, uh, we represent a rather significant geographical area, where there's sufficient cohesion among dairy producers to put in these base-plans. And, uh, one of the names that you mentioned, Land-O-Lakes, that's not a part of our controlled organization, but I think they'd have to follow us, on this. If you really got into this base thing.

UNIDENTIFIED. Mr. President, uh, I'd like to make a point. I think you have some [unintelligible] here with regards to the relationship of the fifties, uh, during the Benson administration, and the situation then as compared to today. At that time, there was quite a potential of milk in the country that wasn't being marketed and that potential is almost nil today. So that the, the, the price structure will not have the same reflection as it did at that time, because there was a lot of nonmarketed milk that came to market with that price situation at that time. And the cow numbers today are the lowest in almost a century.

UNIDENTIFIED. [Unintelligible.]

UNIDENTIFIED. Do you want to move that production up—takes cows—

UNIDENTIFIED. And its more important than that if you go back and look at the [unintelligible] interest and the calves are not there.

UNIDENTIFIED. There—that's right. There, the uh—

UNIDENTIFIED. Reflects the country.

PRESIDENT. Tell me about this going into the dairy business, Uh, how big an operation is it?

UNIDENTIFIED. It's a high capital item.

UNIDENTIFIED. That's, uh—

UNIDENTIFIED. But, but, well I'm going to let one of these dairy farmers talk to that [unintelligible].

PRESIDENT. What about that?

UNIDENTIFIED. Well, Mr. President, it's a very expensive business to get in any more.

PRESIDENT. In other words if somebody's going to—First of all, you've got people in the business. Uh, the question is, What can they do to prevent—The question, what about somebody going into the business? What does it cost? Is it a big deal? \$100,000?

UNIDENTIFIED. At least that.

UNIDENTIFIED. \$100,000 won't do it. It takes more than \$100,000.

PRESIDENT. It does?

UNIDENTIFIED. It takes—

PRESIDENT. In other words, it's not a business that can be expansible particularly by new people coming in.

SEVERAL VOICES. [Unintelligible.]

GREGG. Mr. President, back in the fifties, uh, uh, when the costs weren't such, it wasn't anything for a man with a few cows, to, to [unintelligible] and go into business. This no longer exists.

PRESIDENT. Um hm.

UNIDENTIFIED. And you see, and they say it costs—

SEVERAL VOICES. [Unintelligible.]

GREGG. Mr. President, one more point that I would like to bring out. It affects what you said at the very beginning when you came to the room. And that this is the philosophy of living in our rural communities. Basically, Mr. President, I'm from Iowa, and, as you drive along the road, you see farmstead after farmstead empty, falling into disrepair, in the, these changing times. And the exodus from the farm sphere has been to the urban areas. We want, not from subsidies or anything else, uh, but invested with our own self-help, to preserve this way of life out there, because this is really where the, as you said, the rock-rib heritage, the religious heritage, is there. And, uh, I live in that country and I love it and I wouldn't want to live anywhere else, but we want to preserve it, and we need this help.

UNIDENTIFIED. [Unintelligible.]

GREGG. This is, this is, uh, very, very important at this time.

PRESIDENT. Well, I want to preserve it, because that—It's, uh, not only important economically to the country, that's important everywhere. It's far more important spiritually, in fact.

GREGG. Right.

PRESIDENT. I refer to spiritually in the broadest sense of the—And I [unintelligible] mean by that, the cities are all corrupt. People placed in there are not—But I do mean that you, you show me a country that loses its rural heartland. It sometimes inevitably it almost always follows that it loses its character. And, uh, and, uh, it's funny, this afternoon, in my view, a, a, uh, the, this, this solid, uh—Well, the new frontier basically is now in the center of the country, not on either coast. Closer though, because in a sense, uh, because the center is emptied out, and now we have to find a way of not only to see that that—We have all the farmers out there, but ways that you can have your rural communities keep up with us there, and so forth so that people who live in that part of the country and find the schools, the doctors and all the other things that make life worthwhile—that's what we're all for. On that point, I think we'll have very good—Well, I, I appreciate this, uh, chance to talk to you and we, uh, I always try to, uh, a distinguished group comes up here to give you a little, uh, memento. Today, uh, you're going, you're going to get the press, uh. [Laughter] Uh, all kidding aside, I have some Presidential cuff links for everyone here and, uh, with the Presidential Seal. And, uh, doesn't have anybody, any President's name on it, so you can wear it whatever you are. [Laughter] And this, since your wives will wonder where you really were today, uh, you can, uh—it's a little bow that she can wear if she likes, and the Presidential Seal. Uh, they're, uh, they're rather nice little trinkets. The, uh, the, I think the, the main, the main point about them is that they look more expensive than they are. Uh, you know the old story is that your children will tell you when they go to school, that kings and emperors are—only give gifts of gold. Well, these are not gold, but only Presidents can give them. [Laughter] Thank you very much.

UNIDENTIFIED. Thank you.

NELSON. Mr. President, one thing you didn't respond to was, uh, your statement that you'd said privately, uh, considerably earlier at today's meeting, that you wanted to attend our next meeting. We're looking forward to your being there, and we'll tell you now we'll have 35,000 dairy farmers with their wives and families.

PRESIDENT. Who's going to milk the cows?

[Laughter.]

NELSON. Well, the cows are going to [unintelligible.]

[Laughter.]

UNIDENTIFIED. Harold should have told you last Monday: we're going to cut production, [Laughter.] We're not going to milk them.

UNIDENTIFIED. Mr. Secretary—

WHITE HOUSE LIST OF PARTICIPANTS TO MEET WITH THE  
PRESIDENT, MARCH 23, 1971

LISTED ALPHABETICALLY

Mr. Paul Affeldt, President, Pure Milk Products Cooperative, Sparta, Wisconsin 608 269-4356.

Paul Alagia, Esquire, Executive Director and General Counsel, Dairymen, Inc., 506 Portland Federal Building, Louisville, Kentucky 40218, 502 585-4301.

Mr. Melvin Besemer, Route 1, New Ulm, Minnesota 56073, 507 354-4404.

Mr. John E. Butterbrodt, President, Associated Milk Producers, Inc., Route 1, Burnett, Wisconsin 53922, 414 885-6076.

Mr. Bill Eckles, General Manager, Pure Milk Products Co-Operative, 500 North Park Avenue, Fond du Lac, Wisconsin 54935, 414 921-4720.

Mr. Don Gregg, Regional Manager, Associated Milk Producers, Inc., Central Region, 1020 North Fourth Avenue, Silbley, Iowa 51249, 712 754-2511.

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Mr. Carlyle Hansen, regional manager, Associated Milk Producers, Inc., Northern Region, Box 455, New Ulm, Minn. 56072, 507 354-8854.

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Mr. Frank White, Associated Milk Producers, Inc., Route 2, Cedar Vale, Kans. 67024, 316 758-3600.

DEPARTMENT OF AGRICULTURE ATTENDEES

Clifford M. Hardin, Secretary.

J. Phil Campbell, Under Secretary.

Clarence D. Palmby, Assistant Secretary.

Richard E. Lyng, Assistant Secretary.

William E. Galbraith, Deputy Under Secretary.

WHITE HOUSE STAFF ATTENDEES

George Shultz.

John Ehrlichman.

Donald Rice.

Henry Cashen.

John Whitaker.

TRANSCRIPT OF MEETING AMONG THE PRESIDENT, EHRLICHMAN,  
CONNALLY, HARDIN, WHITAKER, SHULTZ, CAMPBELL, AND RICE,  
MARCH 23, 1971, 5:05-5:35 P.M.

PRESIDENT. Hi, Phil, how are you?

CAMPBELL. Mr. President.

PRESIDENT. Sorry to keep you waiting.

CAMPBELL. That's all right.

PRESIDENT. I suggest that we sit over here everybody. More room and, uh—  
[coughing]. Sit down.

UNIDENTIFIED. Yeah, this——

UNIDENTIFIED. But——

UNIDENTIFIED. Oh, that's all right.

UNIDENTIFIED. I had that Senator [unintelligible].

UNIDENTIFIED. Came in and got me nervous, uh, he——

UNIDENTIFIED. If he'll go with you, well, that's great.

UNIDENTIFIED. Very clever.

UNIDENTIFIED. Phil, uh, [unintelligible].

PRESIDENT. They're counting on Hubert.

UNIDENTIFIED. Concentrate on Hubert.

PRESIDENT. Hubert is supposed to have told Meany that I, uh——

SHULTZ. I don't know that you've met Don Rice, and you've obviously met——

PRESIDENT. Yes.

SHULTZ. Don Rice.

SEVERAL VOICES. [Unintelligible.]

RICE. How are you?

SHULTZ. I talked with Meany this afternoon about the SST.

PRESIDENT. What'd he say?

SHULTZ. He said he was all out on it. If there was anything we wanted to do, he wanted to do it. He'd be ready to do it. They——

PRESIDENT. Well, could you ask him to, could you ask him, could you phone him back after this meeting and ask him to call Hubert Humphrey, with the understanding he, uh——

SHULTZ. Yeah.

PRESIDENT. Hubert Humphrey has told everybody that he was going to be for it. And he understood——only because Meany was for it.

SHULTZ. That's right.

PRESIDENT. Because labor was for it. And, now that we understand he's wavering in it, he's breaking. And that Hubert Humphrey's vote may make the difference.

SHULTZ. All right. I'll call him. He said he——he had been calling me and that he had quite a few disappointments, he said. But, anyway, I think we're working on it and we will continue to work on it.

PRESIDENT. And he, however, is apparently not doing much.

SHULTZ. That's right.

PRESIDENT. Uh, uh, uh, tell him we ought to review this, this situation. [Unintelligible.] Now, uh, John, would you express your views, uh, to us all—you expressed them to me this morning. [Coughs.] I had a [unintelligible] you fellows heard their story today.

EHRLICHMAN. It's dead. It's——

CONNALLY. Well, Mr. President, I don't—I understand you did meet with 'em—but I don't want to try to go back over the economics of it, uh, I'm not——

PRESIDENT. How about the politics? Can you——

CONNALLY. Uh, I'm not trying to talk about it or discuss at any great length the, the economics of it, but as far as the politics are concerned—looking to 1972, it, uh, it appears very clear to me that you're going to have to move, uh, strong in the Midwest. You're going to have to be strong in rural America, uh, and particularly that part of the country. Now, there are a lot of things that you can't do, uh, with respect to farmers. They're almost, uh, beyond help at this point. Uh, they feel like they are. They don't feel like anybody's trying to help them. Uh, every time they turn around, they hear somebody talking about, wanting to increase imports on beef from Australia to, to—in behalf of the consumer. Hog prices are down what, uh, fif—seventeen dollars——

HARDIN. [Unintelligible] dollars from 29.

CONNALLY. They were, they were 29 a year ago.

UNIDENTIFIED. It's because they grew so many.

CONNALLY. Well, we had, there's, there's lots of problems and they're responsible for a lot of them. Fortunately, beef prices have held up fairly well but, uh, grain is an insoluble problem so far as I can tell. Uh, it, it, it—working with it for years, so I, I just don't know many areas that you can do many things—that's the net of what I'm saying—to help, uh, the farmers uh, and the dairy people now. These dairymen are organized; they're adamant; they're militant. This particular group, AMPI, which is the American Milk Producers Institute or something, uh, represents about 40,000 people. The one that parallels them on the east, uh, Mid-Con, or something—

HARDIN. Mid-American.

CONNALLY. Mid-American group represents about 40,000. The southeastern group, uh, Dairymen Inc., whatever their name is, represents a lesser number, but probably in the range of 20,000 members. They, uh, very frankly, they tap these fellows—I believe it's one-third of 1 percent of their total sales or \$99 a year whichever is—

PRESIDENT. Like a union.

CONNALLY. Oh, it's a check-off. No question about it. And they're meeting, and they're having meetings. They have them a Sabine airplane, and they just travel from one part of the country to another part of the country to get these fellows in and they sign them up and it's a pure check-off deal. And they, they're amassing an enormous amount of money that they're going to put into political activities, very frankly. And, uh, uh, I think, the purpose—I think they've got, uh, a legitimate cause. I wouldn't, I wouldn't recommend that you do, you ta—, do that if it didn't have any merit to it. They're asking for, for an increase in the cost, uh, in the price of a hundredweight up to four—, 492. They originally started out at 505. And, uh, uh, I am sure that these fellows can all argue more convincingly than I can that on the basis of the merits, they ought not to get it, or that milk production will go up or something else, but the truth of the matter is, the price of milk is now pegged at 492. You're not going to raise the price of milk. Uh, they're supporting the price of milk themselves with their own money by buying cheese. Right today. Now, if they, if you don't support the price, let them support it at 492, they're going to have to drop it because their, their resources are not such that, that they can continue to pay the difference between, what, 466 and the, and the 492. So they'll drop the price.

HARDIN. Now they're, they're in trouble. They've already spent more money than they have, and they're going to drop the price of milk about 50 cents a 100, on, uh, April 1. [Unintelligible] lost to the Treasury. This is why the deficit—

UNIDENTIFIED. They're not, they aren't simply involved with low resources.

CONNALLY. They, they may well have. Now, there's some talk that, uh, that if the management of it's in trouble and so forth—I don't believe it, I don't believe it.

UNIDENTIFIED. I'll, I'll—

CONNALLY. They just raised to pay \$20,000 for a meeting in Brownsville not too long ago. And this means they've got security. And, uh, they're doing some things that I think are a little strong-armed tactics, perhaps in, uh, the organizing, uh. But, uh, I don't criticize that unless we are prepared to take on business and labor and all at the same time. There's no point in denying the farmer what's the practice for the laborer. And, uh, so I'm not, I wouldn't judge it on a moral basis. I judge it on the basis of, uh—

HARDIN. You've heard all the rest of it—

CONNALLY. I'm addressing myself to the narrow aspects, to the political aspects of it. I don't think there's a better organization in the United States. If you can get it, uh, if you can get more help for 'em, that, uh, will be, uh, be more loyal to you. And, uh, and I think they've got a worthy case to begin with. And, uh, that being true, I just think you ought to stretch the point. I wouldn't wait till next year, so that—I know that there's been some advice given to you, to wait till next year. Uh, that's—I will differ with that, simply because they're going to make their association and their alliance this year and they're going to spend a lot of money this year in various congressional and senatorial races all over this United States. And, you don't want to be in a position—as you well know better than I—you got no questions when people think [unintelligible] you're

doing something for them. And they're not lined up in position. If, if you do something for them this year, they think you've done it because they got a good case and because you're their friend. If you wait till next year, I don't care what you do for them. They're going to say, "Well, we put enough pressure on them this election year, they had to do it." And you, you get no credit for it. So it's still going to cost you an enormous amount of money next year, and you get no political advantage out of it. And, I just think that, uh, that unless you just, uh—the economics of it are just beyond reach, or beyond question that, uh, if you ought to really seriously think about doing it this year.

PRESIDENT. That's the problem. I have two problems—is that you have it in the House and the Senate.

CONNALLY. What you are going to do on that?

UNIDENTIFIED. [Unintelligible.]

PRESIDENT. What I mean is, that if you don't do it, they're going to do it anyway.

CONNALLY. I think if you don't do it——

PRESIDENT. If they do——

CONNALLY [continuing]. They're going to pass it.

PRESIDENT. I think they do.

HARDIN. I think it's——

PRESIDENT. We have a damn near insoluble problem.

HARDIN. I think it's, as it stands today, it's almost certain to pass.

CONNALLY. Uh, I think that's right.

EHRLICHMAN. Is that what Belcher told you?

HARDIN. Yes, yes, I think they got 150 names on the bill.

UNIDENTIFIED. You sure?

HARDIN. And, uh——

UNIDENTIFIED. What is it?

HARDIN. And, uh, the Speaker's all out for it.

CONNALLY. Absolutely. Wilbur's all out for it.

UNIDENTIFIED. Yeah.

CONNALLY. Well, they're going to pass it through the House. Beyond any question in the world.

HARDIN. And, uh, and, uh, they'll pull the liberals on this one, uh, because they're, they'll say they're going to embarrass the President.

PRESIDENT. That's right.

HARDIN. Uh, the liberals might attract the consumers in any other situation. But they won't do it now.

PRESIDENT. That'll raise the price, you see. I mean, that's the way they'll cut the liberals off. They'll say: No, they're going to—we guarantee, we won't—like they told us this morning, we won't raise the price; we'll cut back on production—we'll have a voluntary——

HARDIN. Uh, I spoke, I spoke a little bit with them this morning, uh, but I just don't quite know——

UNIDENTIFIED. [Unintelligible.]

CONNALLY. Now they've already figured out and how—They're circulating—I've had it for days—they're circulating how they're going to cut you up this year. And that's what they're going to do. They got it all figured out. They're passing this out on the Hill, just exactly how many electoral votes they're going to cost you if you veto the 85 percent bill—which they think they're going to pass. And I think they're going to pass it. And they say that it'll cost you Missouri, Wisconsin, South Dakota for sure. Veto will probably cost you Ohio, Kentucky, and Iowa. And, then they go on down and they take the States and they figure what percentage of the States it's going to cost you and they're going to [unintelligible].

HARDIN. Well, if it does pass, I don't think the President has any choice but to sign it.

PRESIDENT. Well, all right.

CONNALLY. Well, then, what do you do? If you do, you've cost yourself the money—you've lost your political advantage. You, you're, you're infinitely worse off.

PRESIDENT. Probably.

CONNALLY. That's where you are.

HARDIN. I think so.

PRESIDENT. What's the cost?

HARDIN. Oh, it's just a wild guess. They said 35 million and I would suggest that it's, uh, nearer a hundred.

PRESIDENT. You would?

HARDIN. Now if they could get, if they need to—we had a little talk after you left and——

UNIDENTIFIED. Right.

HARDIN [continuing]. uh, about whether they really could influence production. And they could, if they went all out to do it. And what they would do, a year from now, would be end up with a hundred and 20 million—billion pounds of milk produced. Uh, they'd be a mature enough organization that they could, uh, recognize that they had made a mistake and could go out and tell their members they had to survive. Uh, well, they're—maybe we won't talk about that. Uh, it's a fact of life. Uh——

PRESIDENT. Uh, it seems to me that the problem we have, Cliff, is this. That, uh, and as you know we have decided on a different course of action in the cheese business and all the other——

HARDIN. Well that has to be done. That has, has to be done anyhow.

PRESIDENT. Oh, what I mean isn't that what we decided that, and that was all we could do.

UNIDENTIFIED. Yeah.

SHULTZ. The higher you raise the price, the more certain it is that you have to be strict about the imports. Otherwise, all we're doing is paying the money to the foreigners.

UNIDENTIFIED. Yeah.

SHULTZ. You have to admit in connection with our business.

UNIDENTIFIED. Yeah.

PRESIDENT. Uh, I see your——

SHULTZ. See that high price here throughout the——

PRESIDENT. Uh, uh——

SEVERAL VOICES. [Unintelligible.]

UNIDENTIFIED. Yeah. Uh.

UNIDENTIFIED. [Unintelligible.]

PRESIDENT. The high interest rates.

UNIDENTIFIED. That's right.

UNIDENTIFIED. [Unintelligible.] Yeah.

PRESIDENT. Well, it's one of those things where with all you experts sitting around where you have to make a political judgment. My political judgment is that the Congress is going to pass it. I could not veto it. Not because they're milkers, but because they're farmers. And it would be just turning down the whole damn middle America. Uh, where, uh, we, uh, where we, uh, need support. And under the circumstances, I think the best thing to do is to just, uh, relax and enjoy it.

UNIDENTIFIED. The legal——

CONNALLY. Mr. President, trade for both years, if you do it. Trade for this year and next year, if you possibly can.

PRESIDENT. With these people?

CONNALLY. Yes, sir.

PRESIDENT. Well——

CONNALLY. Yes, sir.

PRESIDENT [continuing]. Can that be done? I, uh, that's what I, uh——

CONNALLY. Yes, sir.

PRESIDENT. That would be great.

CONNALLY. Yes, sir.

EHRLICHMAN. If you could make a deal for the 2 years——

CONNALLY. Yes, sir. It can be done.

HARDIN. They will do that.

UNIDENTIFIED. You bet.

CONNALLY. Won't they Phil?

CAMPELL. Yes.

UNIDENTIFIED. Yeah, I would——

UNIDENTIFIED. Well, I would say the price is stable.

PRESIDENT. Yes; that's correct.

UNIDENTIFIED. Yeah.

HARDIN. The other thing Mr. President, so they're not asking——

UNIDENTIFIED. And, uh——

HARDIN [continuing]. That, uh, on grounds that it would be just hard to answer. These fellows have a tendency to say, "Well, now look, uh, look at the construction industry. Look at labor. Uh, and then why be so chintzy with us? Uh, all, all evidence is our costs keep rising, and that we're under the freeze, and, uh, you take it out on us not, not the people who are really causing the problem." And, this is hard to answer. Uh, when it's a challenge put that way—

CAMPBELL. Well I think we can settle for a—

UNIDENTIFIED. We've got this other consid—

PRESIDENT. All right, make the best deal you can.

UNIDENTIFIED. Yeah.

PRESIDENT. Do it for 2 years and, uh, we, uh, we, uh, we know that, uh, and as I say, I appreciate the, the very fine judgment to the contrary which, which you can't do as, uh—

HARDIN. Now, we must do one other thing, uh—

UNIDENTIFIED. [Unintelligible.]

PRESIDENT. Let's let them know what we're doing. That, uh—

EHRLICHMAN. Let's get credit.

UNIDENTIFIED. Oh God, if we're going to do this—

CONNALLY. Mr. President—

PRESIDENT. Let's—

CONNALLY. Please, may I interject a suggestion?

PRESIDENT. Uh, uh—

UNIDENTIFIED. [Sighs.]

CONNALLY. Uh—

PRESIDENT. Anything you like.

CONNALLY. Well, let's don't, let's don't trade the, uh, uh, through Agriculture, uh, on the merits—

PRESIDENT. Yeah.

CONNALLY. Until, uh, some other conversations are had.

PRESIDENT. Yeah, yeah,

CONNALLY. Uh—

HARDIN. [Unintelligible] we've got a little work to do. We've got to let Page, that, uh—

UNIDENTIFIED. What?

HARDIN. I mean—Bob Dole.

CONNALLY. All I'm saying is you—

EHRLICHMAN. No. Later, because they're—

CONNALLY [continuing]. You're in this thing for everything, you, can get out of it. [Unintelligible.]

UNIDENTIFIED. [Unintelligible.]

UNIDENTIFIED. Yeah.

EHRLICHMAN. You either hold your position now till you get the green light, couldn't you?

CONNALLY. Oh, sure.

PRESIDENT. What?

EHRLICHMAN. Yeah, as I say, that Agriculture doesn't need to do anything right away.

UNIDENTIFIED. He—

PRESIDENT. You, you're now thinking of the political offer?

EHRLICHMAN. In a day or so.

SEVERAL VOICES. [Unintelligible.]

SHULTZ. The sooner you do it, the better off you're going to be, aren't you?

HARDIN. Uh, yeah. Possibly, uh—Page.

SHULTZ. In a day or so.

HARDIN. Now, Page knows Dole. I wish he hadn't done it quite this way, but one of his little talks to the Speaker, and Wilbur—he got them to agree to hold the bill until he could talk to the White House.

PRESIDENT. Well—

CONNALLY. He, he could make, Mr. President, I suggest to you that somebody make a little capital with the Speaker and with Wilbur. That you'll do this. And somebody can do it. Now, they'll, they'll say, well, you, you know, they'll say, well, "You did it because—"

PRESIDENT. Yeah.

CONNALLY [continuing]. We've introduced a bill."

PRESIDENT. All right.



CONNALLY. But I know somebody down here can make a little time with them. How much, how much I don't know. But it's worth trying, obviously, because they're both extremely interested in it.

EHRLICHMAN. Phil, move over there, would you. We'd like to get the picture of some of the House groups that are [unintelligible]. All together now.

HARDIN. Wilbur, uh—

UNIDENTIFIED. Shouldn't happen [unintelligible].

SHULTZ. As an aside on this: Wilbur passed the message to me via Bill Gifford to thank you very much. Apparently his family was—

UNIDENTIFIED. Yeah, he got around to the White House.

SHULTZ. And, uh, he spoke with—and the grand—and he said the grandchildren loved it. Wilbur says it's the nicest thing that's happened to him in years.

PRESIDENT. Hah.

SHULTZ. And I just wanted you to know [unintelligible] he apprecia—he really had a very pleasant evening.

CONNALLY. Let me tell you how important I think it is to Wilbur. Now I don't—I can't vouch for this. I haven't pursued it. I haven't followed it up. I don't want to. But I was told that you could almost name your price with Wilbur short of all-out support of revenue sharing if you did it.

EHRLICHMAN. You know him?

CONNALLY. Yes, sir.

CAMPBELL. You that close to him?

CONNALLY. That's correct.

CAMPBELL. And he knows this bill intimately.

CONNALLY. That's correct.

CAMPBELL. And he can explain it to you better than the dairymen.

CONNALLY. That's correct.

PRESIDENT. Yeah. Yeah.

CONNALLY. He sure can.

PRESIDENT. I noticed they had a strong man from Arkansas in there, didn't they?

EHRLICHMAN. Well, uh, let me ask this. Uh, who's the guy that told? Uh—

PRESIDENT. What my point is: This is something where I would not have it done by you, Cliff, in Agriculture. Let's have it done in a way by somebody who has to get something out of it. Uh, like George. You see my point?

HARDIN. Uh, hm. Sure.

PRESIDENT. On Wilbur.

HARDIN. Sure.

PRESIDENT. How would that be? Does that sound all right to you, John? Or should you tell him?

CONNALLY. No. I think somebody other than me, sir.

PRESIDENT. Yeah.

CONNALLY. I think George, or —

PRESIDENT. Yeah.

CONNALLY. Whoever —

PRESIDENT. You see my point?

SHULTZ. Yeah, maybe John and I.

PRESIDENT. Maybe John Ehrlichman and George.

CONNALLY. And don't overlook the Speaker, Mr. President.

PRESIDENT. And do the same with the Speaker. But, I mean the point is, when you do something for these fellows, remember, don't just let them think that we're doing it for, uh, turning our back on policy. Get a picture to them.

UNIDENTIFIED. True. Right.

UNIDENTIFIED. [Unintelligible.]

PRESIDENT. You have that point, now.

UNIDENTIFIED. Yes, sir.

PRESIDENT. Fine.

CONNALLY. I could maybe suggest a better way. If you tie it in, uh, keep in mind that Wilbur called me twice about this.

PRESIDENT. Uh huh.

CONNALLY. And I think Jerry called him about this.

HARDIN. Did he call you about it?

CONNALLY. The Speaker called me, which is very unusual, and he just normally doesn't do that.

UNIDENTIFIED. Well, that's fine, Dick, both talked to you about it.

PRESIDENT. All right. Fine. Well, all right.

EHRLICHMAN. There is—

PRESIDENT. I think that, I think that, I think what our play should be here is basically, uh, uh, I think maybe it's, uh, George and John—what do you think? John Ehrlichman.

EHRLICHMAN. I think that would be great.

PRESIDENT. They, they're going to have to deal with them on revenue sharing and all these other programs. And, and you, uh, pass the word to—you, of course, handle all the—Page and all that.

UNIDENTIFIED. Heh, heh.

UNIDENTIFIED. If you give them cookies they, they'll love it.

HARDIN. Now look there, there are a few of those, fellows—. Let's take them home with us.

SEVERAL VOICES. Oh, yeah.

HARDIN. There are only a few. And, uh, I think we got to give them a chance to holler back.

EHRLICHMAN. I'll agree.

UNIDENTIFIED. Now—I'll agree.

PRESIDENT. That's right. That's right.

HARDIN. We may need them again.

PRESIDENT. Yes, sir. They've been wonderful.

UNIDENTIFIED. Wonderful.

HARDIN. We're going to let you time the [unintelligible] and see what we can [unintelligible].

UNIDENTIFIED. We may need some hands.

UNIDENTIFIED. [Unintelligible.]

PRESIDENT. What would you like to do with the timing, Cliff? I mean—what are you suggesting?

HARDIN. Well, I think it depends on George. Uh, you know, uh, uh, we've got to accommodate—I think we ought to go this week.

PRESIDENT. Good; I think the sooner the better—

HARDIN. And, uh—

PRESIDENT. Because, uh, let's don't have, let's don't do it under pressure.

HARDIN. And, uh, uh, I think that if you can get Wilbur and, uh, uh, the Speaker quickly.

UNIDENTIFIED. Yeah.

HARDIN. Uh, then, uh, uh, you get a hold of Page and these other fellows, uh, also, but, as soon as they know what we are thinking about, uh, it will leak out pretty fast.

SHULTZ. Well, I don't think that there's any problems about the thing and, uh—

PRESIDENT. But be sure you get to Page Belcher.

UNIDENTIFIED. [Unintelligible.]

PRESIDENT. He could get Wilbur.

UNIDENTIFIED. But you're going to have to [unintelligible].

UNIDENTIFIED. Yeah.

UNIDENTIFIED. [Unintelligible.]

SHULTZ. If you wanted to, you could do it. At the same time, of course, you get different people doing it so they don't get crossed up.

UNIDENTIFIED. All right.

CAMPBELL. It, it, it—it's going to have to almost be done simultaneously because just as soon as they've talked, it's so important, everybody is going to know it. The first one that knows is going to get on the phone and call the dairymen—

UNIDENTIFIED. You, uh—

CAMPBELL. And soon as one of the dairymen knows, all of them will.

PRESIDENT. I'll say.

SHULTZ. Uh, but aren't you and somebody going to want to talk to the dairymen about it so you can set up a—

EHRLICHMAN. Make a 2-year deal.

UNIDENTIFIED. A 2 year deal.

SHULTZ. Two year deal.

PRESIDENT. I think first you have got to—well, then and they're going to know—they're, they're—

CAMPBELL. But no, Mr. President, you could ask, you could ask if we're able to do anything would you be satisfied to leave this alone next year. They'll come

back promptly—and you'll get a way out if you do. They'll never, never listen to the Secretary. We've found that—

UNIDENTIFIED. Um huh.

CAMPBELL. But I can tell you—

UNIDENTIFIED. [Unintelligible.]

UNIDENTIFIED. [Unintelligible.]

CONNALLY. May I suggest?

UNIDENTIFIED. And I know—

CAMPBELL. I suggest just as quick I can get them on the telephone.

PRESIDENT. All right.

CONNALLY. May I also suggest—

PRESIDENT. Make sure you got the deal to present to me, And, uh—

UNIDENTIFIED. [Unintelligible.]

CAMPBELL. No. I'm not notifying them anyway.

PRESIDENT. No, no, no, no, no. [Unintelligible.]

EHRLICHMAN. His idea is that he'll say, "Look we were able to do this. Will you pledge this." See?

PRESIDENT. Uh huh.

CAMPBELL. No; no problem.

EHRLICHMAN. Still hypothetical.

PRESIDENT. Yeah, yeah. Then that way the decision is still open. And then, boom.

CONNALLY. And you can pretty well seal this, John and George, uh, when you talk to Wilbur and the Speaker. The 2-year aspect.

UNIDENTIFIED. You handle it.

CONNALLY. You should hear that out and we'll talk about it.

WHITAKER. I just want to raise one point. The thing that got that started is the concern of over-production. If you don't think down the line with me it will be more trouble in the end.

CAMPBELL. This—if, if we do it'll be 2 years off and not next year.

UNIDENTIFIED. That's it.

PRESIDENT. And John, what other problems does that involve? Uh, uh [unintelligible].

SEVERAL VOICES. [Unintelligible.]

HARDIN. [Unintelligible] you may have over-production next year. And we may blame it on this. But it will be for other reasons.

PRESIDENT. Yeah.

EHRLICHMAN. Actually it takes more—takes longer than that.

PRESIDENT. There's one thing about this, it's one thing about this industry that is, uh, quite interesting. It's that, uh, it's, uh, it's a big business. From the standpoint—you know, they go into this business, you know, and people say—it—as a matter of fact, I get the impression, Cliff, and I'm not too much of an expert on the farmer, but I get the impression that—for example, with regard, uh, uh, regarding, regarding the price of hogs. People who go into that business, from what I gather—it's pretty easy, isn't it?

HARDIN. Changing the par—, went for parity?

PRESIDENT. The dairy business, on the other hand, requires an enormous net invest—investment. You know, you can raise more pigs, right?

HARDIN. Yes. And the, and the times get—

PRESIDENT. Fast. Fast. And that's why the pig, po—, the corn-hog, ratio, uh—that business goes up and down almost like an escalator, doesn't it?

UNIDENTIFIED. Right.

CONNALLY. Mr. President, two litters per year and the average now is running better than seven pigs per litter, isn't it?

CAMPBELL. Mr. President, there has been some studies run on this and the cost is approximately, it approaches \$2,000 per cow. So you just multiply 50 cows, 100 cows, 150 cows by 2, \$2,000. You've got a pretty good investment.

PRESIDENT. Well, you have an enormous—so somebody is going to go into that business.

UNIDENTIFIED. Yeah.

PRESIDENT. I mean, uh, there are added things; it's it's a big, uh—

CAMPBELL. Big chunk of cash. Can't go less than 50 cows—

PRESIDENT. I know. Yeah.

CAMPBELL. Seventy or eighty.

PRESIDENT. Yeah. Yeah.

HARDIN. But, uh, we had, what, a million dairy farmers, uh, 10 years ago and down 400,000 from what you were.

SHULTZ. We have a, uh, we have a problem to, to, uh, think about here on the antitrust side of this thing. Or, uh, they're going to wind up in trouble.

HARDIN. Yes, they may have—

SHULTZ. If they try to control production—

HARDIN. Yeah, they, they—

SHULTZ. They're over—they're, very eager.

UNIDENTIFIED. [Unintelligible.]

HARDIN. May have already done it. But, uh, uh—

CONNALLY. The significant thing is they have legal counsel and they're following their advice.

HARDIN. Well—

PRESIDENT. Good.

SHULTZ. They do have a good legal counsel.

EHRLICHMAN. They have a good one.

PRESIDENT. They've got them all over the country.

CONNALLY. Uh, there are many folks [unintelligible] but I don't know, Cliff, what you're talking about.

HARDIN. Uh, well, they're, they're sure, they're sure awfully close to the line. They are not the first group in the economy, that's done that.

UNIDENTIFIED. Oh, I'll say. [Laughing.]

PRESIDENT. Well, we won't prosecute the farmers.

HARDIN. Could I bring up just one other thing?

PRESIDENT. Sure.

HARDIN. It's a somewhat related subject, Mr. President.

PRESIDENT. Sure.

HARDIN. It doesn't have anything to do with this matter; but, uh—

PRESIDENT. Britain?

HARDIN. No.

PRESIDENT. No.

HARDIN. Uh? Meat, meat imports. Uh—

PRESIDENT. Oh, that. I thought we decided that.

HARDIN. We did.

PRESIDENT. We are going to import aren't we?

HARDIN. Uh, a little, uh, as little as possible. But Mr. Houthakker called me yester—He's convening a meeting now, and, uh, he thinks we ought to force the price of beef down. And let in more imports. And he's, he wants a interdepartmental meeting. I think it's next Tue—Monday or Tuesday. And this is just going to, uh, raise havoc with the cattlemen all over again. When we just got them all quieted down. They've all written articles; they're just bleeding about what the President did.

PRESIDENT. What would I do, if, if—and didn't—I imported not too much, and meanwhile, hold that middle, middle options?

HARDIN. Yes. And, uh, they're, and uh, so I called Ed and I said, "Now, I want to see you bleed in your publications. I want you to post all the—and support the President." He went all out with me on this. "Well," he said, "me [unintelligible] just a little." And I said, "If I see one word [unintelligible] not one damned one of you is ever going to get in my office again. Do I make myself clear?" And they did say it in their publications. They did go all out.

PRESIDENT. Um huh.

HARDIN. Uh, so, uh, uh, to open this up again now, it just would be terrible. There's no—in fact, it'll change a bit. It's just a—George, can you, can you collar that guy? and, uh—

SHULTZ. No, I, I—

HARDIN. He's, he's the one that's given the Nixon administration the reputation for being for low farm prices. He just—every once in a while he comes out with something.

PRESIDENT. Sure never gets reflected in the CPI. Except, uh—

HARDIN. No.

PRESIDENT. Not this last month.

UNIDENTIFIED. Oh.

PRESIDENT. It was for 6 months before that, though.

UNIDENTIFIED. Oh.

PRESIDENT. So we've got to get credit for that.

SHULTZ. The last few months the wholesale price index has skyrocketed.

PRESIDENT. Yeah. That's what I mean—food.

SHULTZ. Well, and the Consumer Price Index would have actually been, uh, left no change, if it hadn't been for the big increase in food prices.

PRESIDENT. Yeah.

SHULTZ. And I'm saying that that—food is going to follow wholesale prices. Business. But, uh, the meat, the meat area is going to be a problem for us. If we're going to get into that, uh—

HARDIN. Well, from the consumer's side, it'll be great; it'll be, uh—

PRESIDENT. You, you.

HARDIN. You've got to get them [unintelligible]. But the poor customer then [unintelligible].

SHULTZ. Uh, uh, the, I think the—

UNIDENTIFIED. [Unintelligible.]

SHULTZ. Well, I understand we're heading into some real problems there, but I—

PRESIDENT. You mean—

SHULTZ. Not that I've studied it, yes.

CONNALLY. Yeah. Go on.

PRESIDENT. I would too.

SHULTZ. Yeah, of course, we're going to import less than we did last year.

HARDIN. Possibly.

SHULTZ. Profit rising.

UNIDENTIFIED. Yeah.

HARDIN. But, I think I'll probably import within 10 million pounds of this thing. Isn't that something?

SHULTZ. But all, all of these things. It's just that, uh, it's the same, it's the same thing when we discuss steel imports or, uh, bunch of these other things—shoes or what have you, and meat. And on the one hand, there is the, the groups that is pushing it; on the other hand there's the consumer. It, uh—as much as—

HARDIN. Everybody have one of these dairy departmental committees studying something you can favor.

SHULTZ. Well that's, well, Houthaker is particularly good at getting it, uh—

HARDIN. Yes.

SHULTZ. [Laughter.] These and, uh, I agree with making a speech or something.

HARDIN. I don't care if you study it if you can keep the trash out. But, uh, if he passes us by, okay.

PRESIDENT. Let's have nothing said about it. Is that fair enough? That is if we're going to have to do it.

SHULTZ. He has to call up and put his hand on that.

PRESIDENT. Will you tell him all about the increase?

SHULTZ. Study it and, uh, follow up on that.

HARDIN. You can't, you can't convene an interdepartmental committee in this Government and not—and then keep it out of the papers.

EHRLICHMAN. Oh, sure you can.

UNIDENTIFIED. Um?

EHRLICHMAN. Sure you can. Yeah. Threaten them a lot.

[Laughter.]

PRESIDENT. The cattlemen have been pretty good friends for us, too.

CONNALLY. Well, cattle prices are down. How much are they down uh, in the past.

UNIDENTIFIED. Not too much.

CONNALLY. Few months?

HARDIN. They're going back up again, John, a little bit.

UNIDENTIFIED. But, uh—

HARDIN. They are not so high, and so forth.

CONNALLY. No, they're not their highest.

SHULTZ. Same statement.

HARDIN. There is a kind of—

CONNALLY. Oh, if they're falling some, George, my [unintelligible] two or three [unintelligible] do a study Agriculture [unintelligible] study [unintelligible].

SEVERAL VOICES. [Unintelligible.]

CONNALLY. Um hm, cattle prices. It'll shock you. And just remember when you talk about food prices, now, and, and bleed for the consumer, that today, food prices in the United States are cheaper than they've ever been in the history of this Nation. In terms of what it takes for, well, uh, hours of work to feed a family. Sixteen percent. That's the lowest in the history of the world. And—

SHULTZ. So that—

UNIDENTIFIED. He's my favorite secretary [unintelligible].

[Laughter.]

SEVERAL VOICES. [Unintelligible.]

SHULTZ. You might study the [unintelligible] crisis awhile. [Unintelligible] of all the things that—

UNIDENTIFIED. Where are they.

UNIDENTIFIED. [Unintelligible.]

PRESIDENT. Well, we'll try to keep the cattlemen from getting on our necks for the moment.

RICE. We've got a, one loose end left on the, uh—

PRESIDENT. Yeah.

RICE. The rate,

PRESIDENT. Uh huh.

RICE. And it seems to be one other thing we are going to have to do is coordinate the timing of the announcement—which we have to make, uh, very closely with these contacts. And—

ERHLICHMAN. Yeah. Well, right after this—

RICE. However, there is someone to contact that doesn't—

ERHLICHMAN. We'll coordinate that, Don. Uh, I think we'll have to get the group together. Uh, we'll have to get Colson and Bob Dole in this, too. And, uh, so—

PRESIDENT. Well, because Colson dealing with the, uh—Well, in any event, I think you got a good game plan. You, you'd, uh, you know what to commit your, your friends and our friends and so on. For political reasons you do, uh, Mr. Mills and Mr., uh, [sigh] Albert. And then, uh, I, uh, I understand Phil will get the dairy people and make the—and say, "All right, you don't bug us next year."

UNIDENTIFIED. That's right.

CAMPBELL. And you are going to do the same thing, George, with the Speaker.

SHULTZ. Yeah.

PRESIDENT. All right.

SHULTZ. What we're going to, is—

UNIDENTIFIED. We're going to pressure this thing.

SHULTZ. Eighty-five percent of parity.

UNIDENTIFIED. Pardon?

UNIDENTIFIED. Is that right?

PRESIDENT. It's eighty-five.

SHULTZ. We're not suddenly going for 505, and I would guess 498.

CONNALLY. No, we're going for 492.

SHULTZ. 492. [Unintelligible] decided the amount was right.

PRESIDENT. Fair enough.

UNIDENTIFIED. All right.

ERHLICHMAN. Better go get a glass of milk.

[Laughter.]

ERHLICHMAN. Drink it while it's cheap.

UNIDENTIFIED. But you know—

UNIDENTIFIED. That's really—

UNIDENTIFIED. [Unintelligible] might work.

PRESIDENT. [Unintelligible.] Yeah, I told them. I said, milk is a sedative. Milk is a sedative.

HARDIN. Say, I told the President this morning that on that T.V. show last night—Uh, uh, that, that few times when he looked right into the lens—

UNIDENTIFIED. Great.

HARDIN. Uh, that went just magnificent.

CONNALLY. May I have, may I have 2 minutes with you on another matter?

PRESIDENT. Sure, sure, sure. Sit down.

PROPOSED PRESS RELEASE ATTACHED TO PHIL CAMPBELL MEMORANDUM

DEPARTMENT OF AGRICULTURE  
OFFICE OF THE UNDER SECRETARY  
WASHINGTON, D.C. 20250

*Charles Price*  
*File - Dairy*  
47

March 24, 1971

To:

Donald B. Rice  
Assistant Director  
Office of Management and Budget

Attached is a proposed press release when action is completed on this subject.

*J. Phil Campbell*

J. PHIL CAMPBELL  
Under Secretary

001265

Attachment

WH

PROPOSED PRESS RELEASE ATTACHED TO PHIL CAMPBELL MEMORANDUM

Secretary Hardin today announced an upward adjustment of support price for manufacturing milk to \$4.92 from the \$4.66 support price announced by him on March 12 which was a continuance at that time of support at the same level as for 1970.

In announcing the new higher support level, Secretary Hardin stated such announcements are minimums which cannot be lowered during that marketing season after once being announced, but which can be raised. Support levels can be lowered only at the beginning of the milk marketing year each April 1st.

Secretary Hardin stated that there is a constant analysis of the milk production situation, and that farmer costs have escalated sharply particularly in concentrate feed which has gone up \$10 to \$20 per ton. Farmers have no way to cut other costs to compensate for those which have risen.

001266

WH



JOHN WHITAKER MEMORANDUM, MARCH 25, 1971

- 2 -

March 25, 1971

CONFIDENTIAL

001247

MEMORANDUM FOR THE RECORD

SUBJECT: President's Meeting with 20 Key Dairy Industry  
Personnel (Associated Milk Producers, Inc.)  
Cabinet Room  
Tuesday, March 23, 1971  
10:35 - 11:25 a.m.

With Secretary Hardin and Under Secretary Phil Campbell, you met a 20-man delegation of dairy industry personnel because you had decided not to increase milk price supports from about 80% to 85% of parity, and you wanted to hear their case for milk supports up to 85% of parity. You made a brief speech about appreciation of their support and how they were solid, patriotic people representing the heartland.

They made the point that they felt a price support of about \$30-35 million would produce \$500 million in revenue for the dairy farmers. With the taxes on this, it would cost the Government nothing. They also talked about high labor and capital costs putting the dairy farmer in a real price squeeze. Finally, there was much give and take about the question of whether this Cooperative (which represents about 30-40% of the milk industry) could, in effect, control their own production so as not to overproduce.

Hardin and Campbell dwelled on the point that they were not at all sure if prices were increased that production would go up so high that the market would tumble.

[ Just before the meeting, Secretary Connally called to suggest that you go along and announce you were ready to go to 85% of parity.

Hardin was against this, as it turned out, and you made no commitment

WH

JOHN WHITAKER MEMORANDUM, MARCH 25, 1971

- 2 -

one way or the other in the meeting. The meeting was held in the background of the possibility that the Democrats are trying to ram through a bill, with Carl Albert leading the troops, for a mandatory 85% price support, which if passed, would put you in a tough spot to veto it with next year's elections coming up.

You promised that although you had missed their meeting last year in Chicago, you would do your very best to come to their next annual meeting (September 3-4, 1971, probably in Chicago again).

Later the same day, you convened Secretary Connally, Secretary Hardin, George Shultz, John Ehrlichman, Don Rice and I to map out strategy on this problem. x

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NOTE: IN THIS PARAGRAPH, THE WRITER IDENTIFIES HIMSELF AS THE SIXTH PERSON WHO ATTENDED A MEETING WITH THE PRESIDENT ON THE AFTERNOON OF MARCH 23, 1971. THE WHITE HOUSE "WHITE PAPER" THE MILK SUPPORT PRICE DECISION OF JANUARY 8, 1974 IDENTIFIES THAT PERSON AS JOHN WHITAKER.

GORDON STRACHAN MEMORANDUM, SEPTEMBER 28, 1971

THE WHITE HOUSE

WASHINGTON

September 28, 1971

001728

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

H. R. HALDENBY

FROM:

GORDON STRACHAN G

SUBJECT:

Milk Money

Three matters of interest developed following the articles in the Washington Post and the Wall Street Journal (copies attached).

1) The Clerk of the House reports filed by the milk people were done incorrectly. This resulted in the disclosure of several of the committee chairmen, who talked with the reporters. John Dean has suggested changes in the form to preclude any further disclosure when the reports are filed again.

2) The RNC (Lyn Nofziger and Ab Herman) have been answering reporters calls to the RNC. Unfortunately they have referred some calls to Lee Nunn, who has pleaded ignorance or "if the money is coming to us, we haven't seen any of it yet" (which is true because the full 232 transferred is held in committees controlled by the milk producers' treasurer).

3) Colson sent a memorandum noting a Justice Department Anti-Trust Division investigation of the milk producers association exemption, which was upheld by the District of Columbia Federal District Court in 1956. Colson urges his own non-involvement. John Dean is checking this report on a very low key basis. ~~Attaching paper for the Attorney General's attached.~~

John Dean has been watching this matter closely as well as the Common Cause suit, which has received some media coverage by mentioning Jack Gleason.

JOHN WHITAKER MEMORANDUM, NOVEMBER 22, 1971

Indistinct document retyped by  
House Judiciary Committee staff

November 22, 1971

CONFIDENTIAL

MEMORANDUM FOR THE PRESIDENT'S FILE

FROM: John C. Whitaker

SUBJECT: Meeting with Secretary Connally, Secretary Hardin,  
George Shultz, Don Rice, John Ehrlichman,  
John C. Whitaker  
Tuesday, March 23, 1971  
(5:05 - 5:38 p.m.)

You worked out a strategy to announce that the Administration was reversing Secretary Hardin's decision and increasing the milk price support to 85% of parity.

The essential format was that Carl Albert and Wilbur Mills were going to pass a bill for a mandatory increase in milk price supports. The collective judgment was that the Democrats had the votes to pass the bill and give them a strong issue if you vetoed the bill.

After requesting Secretary Hardin to do all in his power to make sure the milk people did not over-produce and ruin their market (the basis for Secretary Hardin's original decision not to raise price supports) you decided to have Secretary Hardin reverse his decision publicly.

Indistinct document retyped by  
House Judiciary Committee staff

Altered John Whitaker Memorandum, Nov. 22, 1971

THE WHITE HOUSE

WASHINGTON,

March 23, 1971

001296

CONFIDENTIAL

## MEMORANDUM FOR THE PRESIDENT'S FILE

FROM:

John C. Whitaker

SUBJECT:

Meeting with Secretary Connally, Secretary Hardin,  
 George Shultz, Don Rice, John Ehrlichman,  
 John C. Whitaker  
 Tuesday, March 23, 1971  
 (5:05 - 5:38 p.m.)

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ATTACHMENT TO JOHN DEAN MEMORANDUM, FEBRUARY 1, 1972

THE WHITE HOUSE  
WASHINGTON

Date 2-18

For

John Dean

From Tod Hollin

For your files  
E has seen

001269

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JOHN DEAN MEMORANDUM, SEPTEMBER 28, 1972

*turned for your*

THE WHITE HOUSE  
 WASHINGTON

September 28, 1972

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JOHN EHRLICHMAN  
 FROM: JOHN DEAN *[initials]*  
 SUBJECT: 001278 Nader v. Butz

On August 21, the Court of Appeals of the D. C. Circuit reversed the District Court's dismissal of the above-captioned case for mootness and remanded the case for further proceedings. Before the Court of Appeals issued its order to the District Court, the Government, on September 11, moved for at least a month's delay to permit time for a decision whether to appeal to the Supreme Court. The Court of Appeals has not yet ruled on this motion, nor has any decision been reached on the question of petitioning for certiorari. However, the Solicitor General has informed me that, absent a very strong indication of governmental interest, he would not be disposed to authorize an appeal.

This memorandum is intended to outline the consequences which would flow from the failure to delay this case by seeking certiorari from the Supreme Court. The greatest political damage would be caused by depositions of the key individuals connected with this matter. Once the District Court receives the order from the Court of Appeals remanding the case, plaintiff need only provide the deponents reasonable notice before starting to take depositions. Requests for production of documents would not create such immediate problems since, under the Rules of Civil Procedure, the government is allowed 30 days to respond, unless the Court orders a shorter time.

The cast of potential deponents include many persons prominently associated in the public mind with such other alleged improprieties as the Watergate incident, the ITT case, and the wheat sale to Russia.

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JOHN DEAN MEMORANDUM, SEPTEMBER 28, 1972

-2-

ADMINISTRATIVELY CONFIDENTIAL

Listed below are the most likely targets:

1. Maurice Stans and Hugh Sloan. They can expect to be questioned concerning the more than 90 political committees organized to support the re-election of the President which received donations between April-September 1971 from SPACE, TAPE and ADEPT, the three political action committees of the milk producers' associations. Officers of these dummy committees, some of whom have publicly stated that they had not authorized the use of their names for this purpose, might also be deposed. Similarly, officers of the 10 Republican committees, which received the initial contributions from SPACE, TAPE and ADEPT in March-April 1971, could also be subjected to questioning about the circumstances of the contributions.

2. The principal officers of the milk producers' associations and their political committees. Questions would cover the meeting on March 23, 1971 with the President and details about political contributions to the President's campaign. Letters from various dairy officials which were uncovered by discovery in another private lawsuit will provide strong ammunition for Nader in these depositions. The letters contain assertions similar to the self-serving type statements found in the Dita Beard memorandum which directly link the reversal of Secretary Hardin's decision to the political contributions.

3. Murray Chotiner, Marion E. Harrison and Patrick J. Hillings. The role of Murray Chotiner's law firm, Harrison & Reeves, should be of prime interest to Nader. Harrison and Hillings attended the meeting between the President and the dairy officials, while Chotiner has been identified in the letters discovered in the second suit as the recipient of the contributions.

4. Jack Gleason. Depositions of the dairy officials are liable to reveal that Gleason was also a contact man for them and handled their unreported political contributions prior to March 1971 when they began to contribute through Chotiner.

5. Department of Agriculture: Secretary Hardin, Under Secretary Phil Campbell and Assistant Secretary Clarence Palmby. All three of these officials attended the March 23 meeting with the President and were connected with this matter in official positions.

001279

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JOHN DEAN MEMORANDUM, SEPTEMBER 28, 1972

-3-

ADMINISTRATIVELY CONFIDENTIAL

6. White House: John Ehrlichman, John Whitaker, Chuck Colson and Henry Cashen. Ehrlichman, Whitaker and Cashen all attended the March 23 meeting between the dairy officials and the President. Whitaker and Colson are also recipients of letters that will probably be obtainable through discovery from Marion Harrison concerning the milk price support level.

7. OMB: George Schultz and Don Rice. Both of these individuals also attended the March 23 meeting and played visible key roles in the decision to raise price support levels.

8. Treasury: Secretary Connally. Although Connally's role in this matter is not easily discernible, he will be a likely target of suspicion due to his contacts with the Associated Milk Producers, Inc. (AMPI), which is headquartered in Texas. Prominent play might also be given to the fact that AMPI was among the first and largest contributors to Democrats for Nixon.

001280 Very difficult legal and political problems in regard to executive privilege will also be raised if discovery precedes the election. It would be politically embarrassing to invoke the privilege to cover White House documents, which are alleged to disclose serious improprieties, or to protect White House staff members. There is also a difficult legal question as to whether executive privilege can protect information sought from persons, who though formerly employed by the government, are no longer serving in this capacity. This problem would be particularly acute in the cases of Secretaries Hardin and Connally, Assistant Secretary Palmby, and Don Rice. All persons connected with the receipt of the political contributions, even though employed by the government, would, of course, in no way be protected by executive privilege because this political activity would clearly fall outside their governmental roles.

I have advised Griswold -- as well as Kleindienst and Erickson -- that I feel the government should appeal. The suit is politically motivated so why should we not take the appeal which will cut off discovery. Griswold obviously does not want to take an appeal for political reasons alone, but the decision by the appeals court also raises questions about the authority of the Secretary of Agriculture to act pursuant to his legal authority -- an issue with implications for other Cabinet officers. I have requested that Justice examine these facets of the case in greater detail and raise them with Griswold.

JOHN DEAN MEMORANDUM, SEPTEMBER 28, 1972

-4-

ADMINISTRATIVELY CONFIDENTIAL

What I am saying, in brief, is that we may have to tell Griswold to appeal and if that occurs, I would like your backing.

Reaction or comments:

001281

cc: H. R. Haldeman

WH

JOHN DEAN MEMORANDUM, DECEMBER 15, 1972

THE WHITE HOUSE

WASHINGTON

December 15, 1972

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

CHUCK COLSON

FROM:

JOHN DEAN

SUBJECT:

Nader v. Butz

You are probably aware of the Nader suit which is attempting to prove that the March 25, 1971 decision by Secretary Hardin to raise the milk price support level was improperly influenced by large campaign contributions from the milk producers' political committees. Plaintiff is now actively engaged in discovery and has made sweeping requests for White House files.

001282

Although we fully intend to exert all efforts to prevent disclosure of any of the White House documents, in order to prepare our position it will be necessary to examine all pertinent materials. Therefore, I would appreciate your forwarding to my office any documents or materials in your office that pertain to (1) the March 23, 1971 meeting of the President with the dairy officials; (2) the March 12, 1971 determination and March 25, 1971 reversal of that decision on milk price support levels; and (3) the March 1972 determination of the milk price support level.

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Since you will shortly be returning to private practice, let me add the reminder that communications from individuals outside the government to the White House will, in general, fall outside the scope of protection provided by a claim of executive privilege. The use of this privilege in the courts has only been recognized to extend to state secrets and intergovernmental documents containing advice or recommendations.

Thank you.



## CHAPTER 6

### The 1972 Presidential Campaign of Senator Hubert H. Humphrey—Financial Elements

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#### PREFACE

The Select Committee was charged with the responsibility to investigate, *inter alia*, the burglary of the Democratic National Committee. Specific mention was made of this in S. Res. 60, and it is common knowledge that the burglary on June 17, 1972, and events which ensued from it, were the precipitant for the creation of the committee. These matters for many months were the center of focus of the staff's energies.

The broader mandate of the committee was set forth in the very first section. It charges the committee with the responsibility to investigate improprieties "in the Presidential election of 1972." There is no limitation in the resolution to activities by the Republican candidate. As in the case of the investigation into allegations of misconduct by the President's re-election effort, the investigation into allegations of misconduct in the campaigns of a number of Democratic candidates was bipartisan. It should be noted that improprieties in campaign financing were not limited to any particular candidate or party.

By fairly and objectively examining campaigns of all candidates, we should be able to see more clearly that the trouble does not lie with any particular party; rather it is the process by which we nominate and elect our President that is in need of remedy.

Senator Humphrey's campaign for the 1972 Presidential election is the subject of this report. Analyses of still other Democratic candidates follow. It should not, therefore, be thought that Senator Humphrey's campaign apparatus has been singled out, or that evidence of improprieties was not found in the others, as discussed elsewhere in this report.

Much of this report relates to contributions by dairy producers. This agricultural enterprise looms large among Senator Humphrey's constituency. It is natural and reasonable that he would be interested in their welfare. The dairy producers found him to be a legislator of national stature and influence who was willing to listen to their problems. In fact Senator Humphrey had been a consistent supporter of this constituency since 1949. The milk producers were willing to provide his campaigns with financial support, and they were not uniformly particular about doing so by means of trusts which were legally established for making political gifts. The desire of the cooperatives to support Senator Humphrey began much earlier than the period

covered by this committee's mandate—financial support was being given to the Humphrey campaign for the Presidency in 1968 when their political action trusts were not yet in existence.

This report reveals that dairy cooperative corporate funds were funneled to the Humphrey 1972 Presidential campaign to the extent of at least \$25,000. An additional \$17,225 was given by way of the dairy trusts. The report examines Senator Humphrey's involvement in the pressure placed on the White House to increase the milk support price in March, 1971. The report reviews financial mechanisms of the Humphrey campaign prior to April 7, 1972 and questions of propriety in some other large gifts unrelated to the dairy industry. (Alleged violations and irregularities occurring after April 7, 1972 have been the subject of treatment and public comment by the General Accounting Office.)

It is intended that this exposition—which was not meant to be exhaustive—will contribute to the body of facts which must eventually induce the Congress to enact meaningful reform in the financing of Federal elections.

## I. CORPORATE CONTRIBUTIONS TO THE 1972 PRESIDENTIAL CAMPAIGN OF HUBERT H. HUMPHREY BY ASSOCIATED MILK PRODUCERS, INC.—VALENTINE, SHERMAN AND ASSOCIATES MATTER

### A. SUMMARY

The 1972 Presidential campaign of Senator Hubert H. Humphrey received services worth \$25,000 from Valentine, Sherman and Associates (VSA), a Minneapolis firm specializing in computerized political services, which were paid for with corporate funds of Associated Milk Producers, Inc. (AMPI). Corporate funds of AMPI were also paid in 1971 to VSA for the benefit of various Democratic parties and Democratic candidates in several States for which VSA performed computer services and the total amount paid VSA for the benefit of Senator Humphrey and other Democratic candidates and officials was \$137,000.

While involved officials in those States knew that AMPI was participating in the venture, there is no significant evidence that any of the officials were aware that corporate funds of AMPI paid VSA to support the projects in those States. Although AMPI itself eventually received some computer tapes, they were of no use or value to AMPI and were only provided AMPI to establish a semblance of propriety.<sup>1</sup>

The evidence indicates that the initial contract between AMPI and VSA was drafted by Jack Chestnut, a Minneapolis lawyer, who was Senator Humphrey's campaign manager in his 1970 senatorial race and his 1972 Presidential campaign. Furthermore, there is evidence that Chestnut was informed in July 1971 that AMPI corporate funds were being used to pay VSA, and that, at a later time, he notified VSA that a \$25,000 payment for the Humphrey campaign account would be made by AMPI.

<sup>1</sup> It was during a committee executive session with Bob A. Lilly of AMPI on November 14, and 16, 1973 that the first information concerning the Valentine, Sherman transaction with AMPI was discovered.

On January 24, 1974 Senator Ervin wrote to Senator Humphrey requesting that he meet with members of the committee staff concerning "various allegations concerning the employment of corporate funds by Associated Milk Producers, Inc., and others." Thereafter on February 7, Senator Ervin wrote a "follow-up letter" which was "designed to provide certain specifics respecting the inquiries the committee wishes to make." After referring to the evidence of the payment of corporate funds of AMPI to Valentine, Sherman and Associates for the benefit of the Humphrey campaign, Senator Ervin stated "we feel it necessary for a committee member to speak with you respecting these circumstances." Senator Humphrey responded to both letters on February 20. Referencing the corporate funds paid to VSA by AMPI, Senator Humphrey said:

Let me say that neither at the time of the alleged transaction nor now do I have any knowledge concerning this particular matter. . . . Because I know nothing about the transaction and have no records in my files relating to it, I see no point in inconveniencing any member of your committee to meet with me.<sup>2</sup>

Mr. Chestnut, his campaign manager, after first being interviewed by the committee staff, later refused to testify under oath in executive session on the grounds that his testimony might be self-incriminatory.<sup>3</sup> A request to Senator Humphrey's office for production of records has not been fully met.<sup>4</sup>

The Federal Corrupt Practices Act makes unlawful the giving or receipt of corporate contributions to political candidates or committees, or the purchase with corporate funds of services to benefit political candidates or committees.

#### B. ASSOCIATED MILK PRODUCERS, INC.

Associated Milk Producers, Inc. (AMPI) consists of approximately 40,000 dairy producer members in the southwestern, central, and upper mid-western States. Its headquarters are located in San Antonio, Texas. Because Federal statutes have forbidden the use of corporate assets for political contributions, in 1969 AMPI established a trust to collect monies from participant-donors, almost entirely dairy farmer members and AMPI employees, and to make political contributions. This trust was named the Trust for Agricultural Political Education (TAPE). In 1972 it was succeeded by CTAPE. A more complete description of AMPI and TAPE, as well as of other dairy producers' co-ops, may be found at the beginning of chapter 5 of the Select Committee report on the Milk Fund.

#### C. VALENTINE, SHERMAN, AND ASSOCIATES

VSA was formed as a partnership in 1969 and was incorporated in 1972. Its two initial partners were Jack Valentine and Norman Sherman. Sherman had been Press Secretary to Senator Humphrey when he was Vice President. For a time, the firm specialized in providing

<sup>2</sup> See Attachment No. 1, p. 899.

<sup>3</sup> See Chestnut, 17 *Hearings* 7699-7703.

<sup>4</sup> See Samuel Dash/David Gartner Correspondence, 25 *Hearings* 11816.

computer services to political candidates who desired to locate voters favorable to their cause and induce them to the polls on election day.

The 1970 senatorial campaign of Hubert H. Humphrey was one of VSA's first clients. VSA was subsequently employed by Senator Humphrey's 1971-72 Presidential campaign. During that campaign, VSA billed the campaign organization for services in the total amount of \$270,000. Included within this total were billings amounting to \$200,000 for computer services regarding the States of Nebraska, Oregon, Florida, and Maryland. As described in detail herein, \$25,000 of this amount was paid by AMPI from corporate funds and there is evidence that Senator Humphrey's campaign manager was aware of and promoted this payment.

#### D. VSA'S INITIAL PROPOSAL TO AMPI

VSA developed a procedure by which it could capture voter names and inclination and relevant demographic data which would be useful in the computerization of political mailings and for other political purposes. It decided to market its services in this regard to various Democratic candidates and State parties. VSA hoped that it could persuade AMPI to bear a large part of the cost of such work. So there would be an appearance of a commercially useful product for AMPI, VSA proposed to provide AMPI with computerized lists of rural residents which supposedly AMPI could use in various commercial programs it might undertake, such as selling insurance. This was, however, a facade. David Parr, consultant to the general manager of AMPI, testified that the documents surrounding the transaction which referred to commercial uses were bogus, that AMPI had no real interest in mailing lists, and that the project was "purely political."<sup>5</sup> Harold Nelson, a former general manager of AMPI, testified that "[t]he primary motive was to help Senator Humphrey"<sup>6</sup> in his 1972 Presidential campaign.

William Connell, Executive Assistant to Vice President Humphrey from 1965 to 1969, stated it was his idea to stir the interest of organizations such as AMPI in sharing the cost of VSA's political projects. He stated, however, that he thought the AMPI payments would be legal, that is, would come from trusts, such as the Trust for Agricultural Political Education (TAPE), which was an adjunct of AMPI. In January of 1971, Connell sent a letter to Parr stating that Jack Valentine would be in Louisville, Kentucky, on January 29 while Senator Humphrey spoke to a dairy group there, and suggested that Valentine make use of the occasion to present VSA's proposal to Parr.<sup>7</sup> Following the event in Louisville, Mr. and Mrs. Parr, Connell, and Valentine flew to Minneapolis in the company of Senator Humphrey. Either during this flight, or while in Louisville, Valentine discussed his proposal with Parr. Valentine's pitch stressed the political benefit to candidates that the AMPI expenditure would bring. However, no agreement was reached at that time. Also, according to Connell, there was no mention then of any benefit for or commitment to the Humphrey campaign. Connell said that, while Senator Hum-

<sup>5</sup> Parr, 15 *Hearings* 6842.

<sup>6</sup> Nelson, 15 *Hearings* 6581. See report of Wright, Lindsay and Jennings to Board of AMPI dated March 13, 1974, concerning earlier AMPI support of Senator Humphrey.

<sup>7</sup> Parr exhibit 4, 15 *Hearings* 6911.



phrey remarked that VSA did good work, he was not involved in the discussion between Valentine and Parr.

Valentine, during this initial contact, submitted a written proposal to AMPI.<sup>8</sup> This proposal recites that VSA specialized in the use of computers in politics and that the end product is the "... oldest type of politics known ... locate and find your people and get them registered and to the polls."<sup>9</sup> It explains that Iowa, Kansas, and Nebraska had expressed an interest in VSA's services but needed financial assistance. Under the heading, "Benefits to AMPI," the proposal argues that AMPI financing of VSA's services would give AMPI "tremendous political leverage."<sup>10</sup> While the proposal contends that "... AMPI would have superior lists by which to help organize its membership," it notes that "[a]ll of the proposed States are critical to Democratic victory in '72."<sup>11</sup>

#### E. VSA'S ARRANGEMENTS WITH AMPI REGARDING SERVICES IN VARIOUS STATES

It appears that, during the ensuing months,<sup>12</sup> arrangements were made by which VSA with AMPI support would provide political services to various Democratic officials in the States of Iowa, Kansas, South Dakota, and Oklahoma which in some instances were available for use in the Presidential campaign. An understanding of the arrangements regarding these States is helpful as background to the AMPI contribution made to Senator Humphrey. Connell and Ted Van Dyk, who had also worked in Humphrey's Vice Presidential office, functioned as agents or finders for VSA with respect to these States. The Select Committee has not established that any of the individuals in these four States who contracted for or received the benefits of VSA's work were specifically aware that the payments to VSA by AMPI were made from corporate money.

The initiating force behind the Iowa arrangement was Van Dyk. The cost of this project was \$60,000, \$50,000 of which was to be paid by AMPI. The evidence suggests that the work done in this State was for Iowa Democrats generally. Thus, a letter from Valentine to Clark Rasmussen, a former Iowa State Party Chairman, at the "Hughes for President" headquarters dated July 13, 1971, indicates that the project would benefit the Iowa Democratic Party and all Iowa Democrats.<sup>13</sup> (Despite the destination of the letter, there is no evidence that VSA's work was done primarily to service Senator Hughes' 1972 Presidential effort.)<sup>14</sup> Valentine stated in this letter that a con-

<sup>8</sup> Parr exhibit 5, 15 *Hearings* 6912-18.

<sup>9</sup> Parr exhibit 5, 15 *Hearings* 6914.

<sup>10</sup> Parr exhibit 5, 15 *Hearings* 6918.

<sup>11</sup> Parr exhibit 5, 15 *Hearings* 6918. Nelson testified that the value of the lists for AMPI membership drives was questionable. In fact, he disclaimed any commercial purpose for acquiring the lists.

<sup>12</sup> A Valentine memo to Connell of April 1, 1971 indicates that as of that date an agreement had not yet been reached. See 25 *Hearings* 11822.

<sup>13</sup> See Valentine to Rasmussen letter, 25 *Hearings* 11823. See also Valentine to Miller letter, 25 *Hearings* 11827. It was in July of 1971 that Van Dyk's retainer with AMPI was increased from \$25,000 to \$60,000 per annum. Van Dyk explained that in early 1971 he asked Nelson and Parr for an increase, because he felt his consulting services were worth more in view of the "large number of consultants" retained by AMPI, and because he faced financial difficulties because of the loss of a major client that had gone bankrupt. Van Dyk, 16 *Hearings* 7022. According to Van Dyk, the AMPI leaders told him they couldn't raise his retainer at that point, but they did allow him to charge to AMPI a portion of his firm's overhead expense (\$10,000 during the first half of the year). Starting in July, billing for overhead expense ceased.

<sup>14</sup> With respect to participation of Hughes personnel, see 16 *Hearings* 7304-05.

tract was not necessary and that he was proceeding on the basis of the "AMPI commitment." VSA billed an Iowa official for \$10,000 for this project on July 12, 1971.<sup>15</sup>

Van Dyk was also the intermediary for the VSA project in South Dakota for a senatorial campaign. This was to cost \$20,000, \$7,000 of which would be paid by AMPI. According to Sherman, the campaign personnel were aware of the arrangement with AMPI. As noted, however, there is no evidence they were specifically aware that corporate money would be used in payment.

Connell arranged the Oklahoma project, which was performed for the State Democratic Party. AMPI agreed to pay \$30,000, which was one-half the expense. VSA retained the rights to the lists prepared for use in the 1972 Presidential campaign. The Oklahoma project was begun with the intention of providing service to State candidates.

A letter from Valentine to Governor Hall dated May 14, 1971, expressed appreciation for a previously held meeting and the hope that they could get together with AMPI to get the project started.<sup>16</sup> A Valentine memorandum of July 20, 1971, states that certain State candidates would share in the project and finance it with AMPI.<sup>17</sup> But a VSA proposal to Governor Hall, dated July 21, 1971, suggests that the lists provided might be used by other Democratic candidates.<sup>18</sup> The Oklahoma project, however, was halted after the initial data accumulation, and no payments were made to VSA other than by AMPI.

The Kansas project was for the State Democratic Party.<sup>19</sup> Its projected cost was \$50,000; AMPI paid \$25,000. As in Oklahoma, VSA reserved the right to use the lists created in the upcoming Presidential campaign. The project was discontinued after the initial data accumulation due to non-payment by the State party.

#### F. THE CORPORATE PAYMENTS BY AMPI

On June 15, 1971, Valentine wrote Parr enclosing an invoice for the Iowa project per instructions from Van Dyk.<sup>20</sup> Valentine stated that, if there were any questions about the invoice, Parr should contact Valentine or Van Dyk. In an apparent effort to expedite payment, Valentine called Van Dyk, who assured him that AMPI would pay. Valentine also called Parr. Parr, who said he had talked to Nelson, assured Valentine that VSA would be paid by July 30.

VSA received an AMPI corporate check for \$25,000 on July 30. Out of concern for the corporate nature of the check, Valentine said, he called Jack Chestnut for legal advice.<sup>21</sup> According to Valentine,

<sup>15</sup> See VSA invoice to Iowa official, 25 *Hearings* 11828. The Des Moines *Register* of May 17, 1974, in a report by George Anthon, said that Senator Hughes "emphasized in an interview that he suggested to officials of AMPI that they help finance the Iowa Democratic effort, after he had turned down their offer of a contribution to his personal campaign funds." Hughes said AMPI officials "agreed to some support for the Iowa Democratic drive, which was designed to assist the expected 1972 campaign by Representative John Culver for the U.S. Senate." Hughes said he had no reason to suspect corporate funds would be used.

<sup>16</sup> See Valentine letter to Hall, 25 *Hearings* 11829.

<sup>17</sup> See 7/20/71 Valentine memo, 25 *Hearings* 11830.

<sup>18</sup> See VSA proposal to Hall, 25 *Hearings* 11831.

<sup>19</sup> See Valentine notes, 25 *Hearings* 11837.

<sup>20</sup> See Parr exhibit 8, 15 *Hearings* 6924-29.

<sup>21</sup> An additional dimension of the relationship between Chestnut and AMPI can be seen in a covert arrangement established in 1970 for the payment of a retainer to Chestnut. Rather than making monthly payments directly to Chestnut, AMPI was invoiced by William Connell, former Executive Assistant to Vice President Humphrey, and Connell in

Chestnut said the check could be retained if AMPI were to receive some computerized lists. Valentine stated that he and Chestnut together then drafted a contract to be signed by VSA and AMPI. The contract indicates that the services to be performed by VSA involved the compilation of lists of rural residents to be used by AMPI in its commercial operations. This contract was back-dated to June 10, 1971 (presumably because the initial invoice was dated June 15, 1971). Valentine signed the contract and sent it to Nelson and Parr by cover letters dated August 2 and 3, respectively.<sup>22</sup> These letters specified that the contract enclosed was drawn by Chestnut. The wording of the contract notwithstanding, Valentine stated that Chestnut and Parr knew the \$25,000 he received by corporate check was for political work done in Iowa. After consulting with Chestnut, Valentine deposited the AMPI check August 2.<sup>23</sup>

Chestnut, when subpoenaed to testify before the committee under oath about his knowledge of the VSA-AMPI relationship, asserted his privilege against self-incrimination and declined to testify.<sup>24</sup> He had previously been interviewed by the committee staff without oath on December 13, 1973. During this interview, Chestnut said he had some recollection that Valentine told him the \$25,000 check had been received. Chestnut stated he told Valentine that, if the payment was for legal corporate work, Valentine could accept it. Chestnut said he has no recollection of being asked by VSA to draft any contract in this connection, despite the fact the Chestnut law firm file on VSA contains what appears to be a draft of an agreement between VSA and AMPI relating to the provision of rural names.<sup>25</sup> This draft agreement, however, is substantially different from the June 10 contract. When first observed in the Chestnut law firm VSA file, the draft agreement appeared just underneath an invoice to VSA for July in the amount of \$91. The Chestnut calendar relating to services performed contains an entry on July 29, 1971, reflecting preparation of a "milk contract" for VSA.<sup>26</sup>

Nelson indicated in his testimony that Chestnut was aware of the full parameters of the understanding between VSA and AMPI and participated in its establishment. As he testified, "we asked him [Chestnut] to prepare the deal."<sup>27</sup>

Parr has no recollection of receiving the August 3 letter from Valentine enclosing the contract. He said that, while some invoices from VSA may have been routed to him for approval, it was Nelson with

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turn paid Chestnut. Parr has stated that AMPI wanted a Minnesota lawyer who was familiar with politics and dairying because of a bill in the legislature and because of concern over a rival co-op, Land O'Lakes. AMPI wanted an attorney to keep it posted. Connell recommended Chestnut. Parr discussed it with Chestnut, and a retainer was agreed upon. Parr states Chestnut was paid through Connell because of reluctance to add another attorney to AMPI retainer payrolls. Parr said it is likely that he had conversations with Chestnut about political contributions. Connell had first met Parr and Nelson during the Humphrey campaign in 1968. Connell was placed on retainer with AMPI as a consultant in the spring of 1969 at \$25,000 per year. His invoices for eight months, beginning in April of 1970, totaled \$5,000 more than necessary for his annual retainer in order to pass through \$625 per month to Chestnut. See Connell 1/21/70 letter, 25 *Hearings* 11839.

<sup>22</sup> See Valentine letters to Nelson and Parr and VSA/AMPI contract, 25 *Hearings* 11840.

<sup>23</sup> Long distance phone charges for the Chestnut law firm show calls placed to Connell on July 30, 1971, as well as August 2, 1971. A long distance call to Connell had also been charged to Chestnut on January 19, 1971, three days before Connell sent the letter to Parr (See Parr exhibit 4, 15 *Hearings* 6911) which suggested a meeting between Parr and Valentine and which appears to have set the entire chain of events into motion.

<sup>24</sup> See 17 *Hearings* 7700-02.

<sup>25</sup> See VSA/AMPI draft, 25 *Hearings* 11844.

<sup>26</sup> See Chestnut calendar, 25 *Hearings* 11845.

<sup>27</sup> Nelson, 15 *Hearings* 6581.

whom Valentine mainly dealt. Parr acknowledged that, although VSA proposed to provide AMPI with rural lists, the primary purpose behind the AMPI payments was to reduce the costs to various Democratic Party leaders of political work done by VSA. He conceded that AMPI expected to acquire political influence by paying portions of the costs Democratic officials incurred for VSA's services. During his testimony before the committee in executive session, the following exchange occurred:

HAMILTON. \* \* \* [T]his contract was back-dated to cover the payment of political moneys for the work done in Iowa, and to cover the use of corporate money for political work done in other States in the future? Is that fair?

PARR. I think that would be right.<sup>28</sup>

All payments by AMPI to VSA—which eventually totalled \$137,000—were paid from corporate funds. This figure includes not only payment for work done for Democratic leaders in Iowa, South Dakota, Oklahoma and Kansas, but also the \$25,000 paid by AMPI for VSA services rendered to the Humphrey Presidential campaign (discussed below in detail). The following schedule sets out the payments made to VSA by AMPI:

<i>Date paid</i>	<i>Amount of check</i>
July 16, 1971-----	\$25,000
August 25, 1971-----	25,000
October 18, 1971-----	7,000
November 15, 1971-----	27,500
December 21, 1971-----	25,500
December 29, 1971-----	27,000
Total-----	137,000

While certain invoices were contemporaneously submitted to achieve certain of these payments, as discussed below, a wholly new bogus set of invoices and letters reflecting these transactions was prepared by Valentine in 1972.<sup>29</sup>

Nelson's initials appear on certain of the VSA invoices indicating that he approved payment to VSA. When Nelson was asked to explain the necessity for his approval of payment, he said it was to control this sort of "political expenditures."<sup>30</sup> He testified further: "I recognize it as being illegal."<sup>31</sup>

## G. AMPI CONTRIBUTIONS TO SENATOR HUMPHREY'S PRESIDENTIAL CAMPAIGN

### 1. THE \$25,000 CORPORATE PAYMENT

A fundraiser for Senator Humphrey was held on October 8, 1971, at the Radisson South Hotel in Minneapolis. Parr and Nelson attended this affair.<sup>32</sup> According to Valentine, he met Parr and Nelson at the airport and transported them to the hotel. Valentine arranged this means of getting together with Parr and Nelson so he could impress upon them his need for additional payments. He told them he needed

<sup>28</sup> Parr, 15 *Hearings* 6841.

<sup>29</sup> See further list of VSA invoices and checks, 25 *Hearings* 11846; and Lilly exhibit 31, 14 *Hearings* 6193-6215.

<sup>30</sup> Nelson, 15 *Hearings* 6590.

<sup>31</sup> Nelson, 15 *Hearings* 6595.

<sup>32</sup> AMPI flight logs show travel to Minneapolis on October 8 and 17, 1971. See AMPI flights, 25 *Hearings* 11847.

\$25,000 for Kansas, \$30,000 for Oklahoma, and \$25,000 for the Humphrey projects, a total of \$80,000. Nelson, Valentine said, gave him assurance of early payment. Nelson said the money would be paid in the same manner as previously, even though the dangers of making the payments with corporate money apparently were discussed. It appears that both Valentine and Nelson wanted to make certain that VSA provided some services directly to AMPI to support the payments.

Parr's testimony in executive session provides some corroboration of this account. He recalls that he and Nelson met on two occasions with Valentine. According to Parr, one of these occasions was in the fall of 1971 when Parr and Nelson went to a Humphrey fundraiser in Minneapolis. He remembered that Valentine picked them up at the airport, and testified that there may have been some conversation about money due.

In December, 1971, as related by Sherman, Chestnut telephoned him to advise that part of the Humphrey bill would be paid by AMPI. Similarly, Valentine stated that Chestnut informed VSA, probably through Sherman, that AMPI would meet \$25,000 of the Humphrey debt to VSA. AMPI paid VSA \$25,500 on December 21, 1971, and \$27,000 on December 29, 1971. From these payments, VSA credited \$25,000 to the Humphrey account.<sup>33</sup> Chestnut, in a staff interview, denied he arranged for AMPI to make this payment for the benefit of the Humphrey campaign, denied informing VSA that the payment would be made, and denied being aware that AMPI money was used to reduce the VSA campaign debt.<sup>34</sup>

There is, however, documentary evidence indicating that Chestnut was in fact aware of the AMPI payment for Humphrey to VSA. One such indication is found in a memorandum from Sherman to Chestnut, dated December 27, 1971, which contains partial reports on VSA work in Nebraska, Maryland, Oregon, and Florida.<sup>35</sup> With respect to the first three States, Sherman stated that the charge is \$125,000, of which \$100,000 was to be paid by the first of the year. He then wrote, "you have paid \$20,000 and another \$25,000 is *certain by other arrangements*" (italics added). The reference to \$25,000 by "other arrangements" appears to refer to the AMPI payment.<sup>36</sup>

A VSA invoice to "Humphrey for President" on December 29, 1971 states that \$100,000 is the cost for services in Oregon, Maryland and Nebraska.<sup>37</sup>

<sup>33</sup> Sherman stated he knew of no benefit to AMPI for its payment on the Humphrey account.

<sup>34</sup> It may be relevant that Chestnut's telephone records indicate that two calls from Miami Beach, Florida, to Parr in Little Rock, Arkansas, were charged to him on December 29, 1971. (See Chestnut Phone Records, 25 *Hearings* 11852.) Records of the Seaview Hotel, Miami Beach, Florida (see Seaview Records, 25 *Hearings* 11861) reflect that Senator and Mrs. Humphrey were registered in a three-room suite from December 28, 1971, to January 3, 1972. Chestnut and his family registered separately for the period December 30, 1971, to January 2, 1972. Chestnut's invocation of the Fifth Amendment when subpoenaed to testify under oath prevented his questioning to determine if the calls to Parr on December 29, 1971, were related to the AMPI payment of the same date. Even though Parr admitted that he frequently talked to Chestnut during this period he informed the Committee (through his attorney) that he does not recall specific discussions with him during this period or discussions relating to payments to VSA. He is certain there was no such conversation in which Senator Humphrey participated.

<sup>35</sup> See December 27, 1971. Sherman memo, 25 *Hearings* 11869.

<sup>36</sup> Valentine has stated that this memorandum constituted written evidence of an oral agreement between VSA and the Humphrey campaign for Nebraska, Maryland, and Oregon reached between Sherman and Chestnut in August or September of 1971. Chestnut denied that the memorandum constituted a contract between VSA and the campaign.

<sup>37</sup> See 12/29/71 VSA invoice to "Humphrey for President", 25 *Hearings* 11872.

However, in the just-discussed Sherman to Chestnut memorandum written 2 days earlier, Sherman had stated that the charge for Oregon, Maryland, and Nebraska was \$125,000. The reduction of \$25,000 most likely reflected the payment from AMPI.

A Sherman memorandum to Chestnut, dated January 24, 1972, complained of a lack of payments by the Humphrey campaign.<sup>38</sup> Sherman stated, "It's killing us" and "we are absorbing the overhead costs through our other clients."<sup>39</sup> He noted that \$85,000 of \$200,000 due for work in Florida, Oregon, Maryland, and Nebraska had been received. But a later VSA invoice to Humphrey for President "c/o Jack Chestnut" dated February 16, 1972, shows that, as of January 24, only \$60,000 had been actually paid *by the campaign organization* to VSA.<sup>40</sup> Again the \$25,000 difference appears to reflect the AMPI payment. These documents strongly suggest that Chestnut was aware of the \$25,000 payment from AMPI.

It is instructive to note that the last three AMPI payments to VSA in November and December of 1971 totaled \$80,000. This corresponds precisely to the amount Valentine says he asked Nelson to pay in Minneapolis in October 1971 and to the AMPI commitments for Oklahoma (\$30,000), Kansas (\$25,000), and Humphrey (\$25,000). By adding this \$80,000 to the \$50,000 for Iowa and the \$7,000 for South Dakota, a reconciliation of the total amount paid by AMPI to VSA—\$137,000—is achieved.

## 2. INDICATIONS THAT AMPI OFFICIALS INTENDED MORE THAN \$25,000 OF THE \$137,000 TO BE FOR SENATOR HUMPHREY'S BENEFIT

There is certain evidence suggesting that AMPI officials intended more than \$25,000 of the amount paid VSA would benefit Senator Humphrey's campaign. In this regard, the testimony and evidence provided by AMPI official Bob A. Lilly must be considered. The evidence Lilly submitted consisted both of testimony and handwritten notes describing the various matters in which he was involved.<sup>41</sup> Lilly's notes inform that, on or about July 19, 1971, he was told that Nelson, Parr, Tom Townsend (of AMPI), Jack Chestnut, and others had met at Senator Humphrey's home in Waverly, Minnesota.<sup>42</sup> Soon afterwards, Nelson, Parr, and Townsend told Lilly, according to his notes, that AMPI was committed to pay \$140,000 to VSA for Humphrey and Congressman Wilbur Mills. The commitment to Humphrey, Lilly understood, was made at the Waverly meeting. Lilly says he was told that money would be spent by AMPI in several States for

<sup>38</sup> See 1/24/72 Sherman to Chestnut memo, 25 *Hearings* 11873.

<sup>39</sup> A Sherman memo to Chestnut of 1/26/72 complains, "I have taken what money we have in Valentine, Sherman and invested it in the Humphrey campaign." (See 1/26/72 Sherman to Chestnut memo, 25 *Hearings* 11874.)

<sup>40</sup> See 2/16/72 VSA invoice to "Humphrey for President", 25 *Hearings* 11875.

<sup>41</sup> Lilly, 14 *Hearings* 6144-65; and Weltz affidavit, exhibit B, 14 *Hearings* 6226-36.

<sup>42</sup> Both Parr and Nelson testified that they had never been to Humphrey's Waverly home, although Nelson said Parr told him he had visited there. There was a fund-raising event for Senator Humphrey at his home on September 18, 1971, but the Select Committee received no firm evidence that any of the above named AMPI officials were in attendance. Senator Humphrey's office has advised that no guest list has been maintained. Chestnut recalled that in the summer of 1971 there was a fund-raising event at Humphrey's home in Waverly. He recalled a large tent erected on the lawn. He said some officials from AMPI may have attended, but he has no recollection of conferring with them, nor of any conferences they may have had with Senator Humphrey. When Connell was asked if he was present at Humphrey's home in Waverly in the summer of 1971 when AMPI officials were present, he said he did recall an event with 500 or 600 people present and a large tent on the lawn. He said Parr and Nelson may have been there and it was likely Chestnut was there, but he has no recollection of any discussion at that time concerning an AMPI commitment to Humphrey.

Senator Humphrey and Congressman Mills in the form of payment for computerized voter lists. Lilly had no knowledge of any arrangement between AMPI and VSA before July, 1971.

It appears that periodically from July, 1971 to January, 1972, Lilly had conversations with Nelson, Parr, and Townsend concerning payments made, and to be made, to VSA. Lilly apparently had some responsibility to insure that proper amounts were paid, and he made periodic attempts to determine the status of AMPI's obligations. He preserved several pages of notes that he made contemporaneously with these efforts.<sup>43</sup>

The notes, written at different times as the obligations matured, contain certain conflicts as to amounts and designations. Lilly's notes indicate that, in a conversation with Parr and Nelson, he was at some time told that \$137,000 was to go to VSA for the following: Iowa—\$50,000; Oklahoma—\$30,000; Kansas—\$25,000; South Dakota—\$7,000; Humphrey—\$25,000. Lilly cannot reconcile these designations with his earlier understanding that the entire amount would benefit Humphrey and Mills. Lilly's notes also indicate that, after all payments had been made, he talked with Nelson who told him that \$50,000 had been allocated to Humphrey.<sup>44</sup>

Nelson's recollections are likewise confused. He remembers the airport ride with Valentine as *predating* the arrangement between AMPI and VSA.<sup>45</sup> It was his recollection that on this occasion he met Valentine for the first time and an oral agreement was reached for VSA to do work for AMPI. However, his understanding is that VSA's work was to be for Senator Humphrey's benefit and that the AMPI payments would reduce the cost of VSA's services to the Humphrey campaign. Valentine told Nelson, "... this (agreement) would make it possible for them to furnish lists to the Humphrey campaign for much less than they otherwise would be able to do it."<sup>46</sup> Nelson said the AMPI commitment to VSA could have been \$140,000. He had no firm recollection of the contract signed by Valentine in late July, 1971, which was back-dated to June 10, but he thinks it was sent to him pursuant to his meeting with Valentine in Minneapolis. Nelson was aware that corporate funds were used to make payments to VSA in an amount totalling more than \$100,000. He was not aware that candidates other than Humphrey were to receive any benefit from the AMPI relationship with VSA.<sup>47</sup> He did know that projects were to be undertaken in five or six States, but thought they were related to the Humphrey campaign.

Valentine's testimony, of course, does not support Nelson's recollection that they met in Minneapolis before the arrangement was made. It appears that Nelson may be mistaken as to the events of the Minneapolis meeting.<sup>48</sup> It is useful to note, however, that at the October 8

<sup>43</sup> Weitz affidavit, exhibit B, 14 *Hearings* 6226-36.

<sup>44</sup> *Ibid.*

<sup>45</sup> Sherman's recollections, based on a contemporaneous conversation with Valentine, support Valentine's account of this situation. In addition, Sherman says that Chestnut may have accompanied the group.

<sup>46</sup> Nelson, 15 *Hearings* 6595.

<sup>47</sup> Robert Isham, an AMPI official, also thought the VSA lists were prepared to benefit Humphrey.

<sup>48</sup> Records provided by Senator Humphrey's office indicate that the Senator spoke to an AMPI conference on July 28, 1971, at the Thunderbird Motel in Bloomington, Minnesota. This motel is located near the Minneapolis Airport. The Select Committee, however, received no firm evidence that Valentine and Nelson met on this occasion. However, AMPI flight logs show travel to Minneapolis on July 28, 1971. (See AMPI Flights to Minneapolis, 25 *Hearings* 11847.)

meeting, Nelson for AMPI pledged \$50,000 to Senator Humphrey's Presidential campaign.<sup>49</sup> Both Senator Humphrey and Chestnut were present at that meeting. Nelson stated he may have intended at the time that the money pledged would come from trust funds (and thus be legal money) but that he had not excluded the possibility that corporate money would be used. There is no evidence, however, that such an additional sum was contributed to Senator Humphrey from corporate sources.

As to whether it was intended that AMPI payments to VSA in excess of \$25,000 were to be for Senator Humphrey's benefit, an October 21, 1971, memorandum from Sherman to Chestnut is pertinent. Under the heading "Kansas and Oklahoma," this memorandum reads:

We are going to be working in these states, as you know, partially financed by AMPI. Both of these states were contacted several months ago and to the best of my knowledge never involved HHH. If there is any inclination by these governors to use the information for HHH, I am not aware of it. Even if they were interested, it would not be where you would invest that contribution. My point on this is: one, when the original commitment was made to Governor Hall and Governor Docking, there was, to the best of my knowledge, no HHH involvement; two, there is no indication that Hall or Docking have been told that since then; three, never in Valentine's conversation with Dave Parr was there a suggestion on either side that this was for HHH.

I don't know how you can gracefully clear that up, but we have an apparently firm arrangement to be paid by AMPI for a part of those two states plus South Dakota.<sup>50</sup>

This document clearly indicates Sherman's belief that AMPI payments to VSA for Kansas and Oklahoma were not for Senator Humphrey's benefit. The memorandum, however, is susceptible of an interpretation that Chestnut felt the AMPI payments for Kansas and Oklahoma were to benefit Senator Humphrey's campaign, perhaps that the Senator would have the use of the VSA lists prepared for those States. Chestnut asserted his Fifth Amendment privilege and his testimony in this regard is not available.

#### H. THE PREPARATION OF BOGUS DOCUMENTATION; THE PROVISION OF USELESS LISTS TO AMPI BY VSA

The evidence shows that, in March 1972, Valentine fabricated a new set of invoices and letters between AMPI and VSA relating to the services described above, along with another contract dated April 29, 1971. Lilly has testified that the creation of this bogus set of documents came at Valentine's initiative. But Valentine states it was Lilly who

<sup>49</sup> This fact may explain Lilly's note that Nelson told him that \$50,000 had been allocated to Humphrey. Parr was questioned concerning his recollection of any commitment to Humphrey as included within the AMPI money to be paid to VSA.

SANDERS. Do you recall that \$50,000 was to go to Humphrey with only \$5,000 of it from TAPE?

PARR. I remember making a pledge for \$50,000 but I don't know whether \$5,000 was to come from TAPE.

See Parr, 15 *Hearings* 6860.

<sup>50</sup> See October 21, 1971 Sherman to Chestnut memo, 25 *Hearings* 11877.



desired the fabrication to demonstrate the legitimacy of the expenditures to the AMPI comptroller.<sup>51</sup>

Valentine states he met with Lilly in December of 1971, at which time Lilly said AMPI had no records to support an agreement between the two firms.<sup>52</sup> Valentine says he was then given AMPI stationery and that, in March 1972, Lilly called for the documentation saying he was under pressure to get the lists for AMPI and close the deal. Valentine said he would furnish lists worth \$137,000. However, according to Valentine, the computer lists finally sent to AMPI contained only one million names and were worth only \$30,000. Lilly, however, told Valentine that the quantity of names and the value of the lists did not matter since his only interest was having something to show the comptroller. Valentine created the entire file by having the documents typed by different employees and on different typewriters in his office. On March 23, Lilly met with Valentine at the Minneapolis Airport and together they signed the spurious documents. A series of twelve letters was prepared.

Lilly states that he received seven tapes from VSA in February, 1972. Lilly did not even check to see if any data was contained on the tapes. He testified that "I do not know what they represent," and that "[t]he names on the tapes . . . were never utilized."<sup>53</sup> Lilly felt the tapes had no genuine value. The AMPI official in charge of data processing, Robert Isham, testified that he does not know the purpose for which the lists were acquired or any use of them by AMPI.

## II. SENATOR HUMPHREY'S SUPPORT FOR LEGISLATION FAVORABLE TO MILK PRODUCERS, AND OTHER CONTRIBUTIONS FROM DAIRY PRODUCER COOPERATIVES

### A. SUMMARY

In 1971 and 1972, Senator Humphrey, who had been traditionally supported by milk producers, received \$17,225 from dairy producers' trusts for his Presidential campaign. These contributions were in addition to \$25,000 which went to the benefit of the Humphrey campaign from dairy cooperative corporate assets.

On March 25, 1971, the Secretary of Agriculture announced a price support level for milk more favorable to dairy producers than the support announced on March 12, 1971. Heavy Congressional pressure was cited by the White House as one factor in the second decision. Senator Humphrey met with AMPI officials, spoke on the Senate floor to urge an increase in the price support of milk, and introduced legislation on March 19, 1971, to mandatorily raise the level. Senator Humphrey has stated that there was no relationship between his receipt of dairy contributions and his support of the price increase legislation. There is evidence that, beginning in 1949, Senator Humphrey has consistently supported legislation favorable to the dairy industry.

<sup>51</sup> Sherman stated Valentine told him that Lilly, for this reason, initiated the document fabrication.

<sup>52</sup> The June 10, 1971, contract between the two firms—which itself was a sham document—apparently had been forgotten. The bogus April 29, 1971, contract is Lilly exhibit 31. 14 *Hearings* 6193.

<sup>53</sup> Lilly, 14 *Hearings* 6149.

## B. BACKGROUND

This committee has investigated the relationship between the milk producer contributions to the President's campaign and the milk support price increase announced on March 25, 1971. The question at issue is whether or not the increase was granted in return for or in anticipation of contributions.

The thrust of the Milk Fund investigation conducted by the Select Committee has been predicated on the thesis that contributions by dairy producers' trusts (TAPE, CTAPE, SPACE, and ADEPT) were made to induce a more favorable decision by the executive branch of Government in respect to the level of governmental support for the price of milk, or that such contributions were in fulfillment of a commitment that they would be given in return for a more favorable decision. It was on March 12, 1971, that the Secretary of Agriculture announced that the price of milk for the 1971-1972 marketing year would be supported by the Federal Government at approximately 80% of parity. In the ensuing weeks many Congressmen and Senators sponsored legislation which would have forced the President to raise price supports to a minimum of 85% (and even 90%) of parity. Support for this mandatory legislation was predominantly Democratic; 125 members of Congress and 29 Senators introduced or co-sponsored such legislation. The President met with representatives of the dairy industry on March 23, listened to the merits of their case, and on March 25, the Secretary of Agriculture announced an increase of support to 85% of parity.

A White Paper issued by the White House on January 8, 1974,<sup>54</sup> argued that intense Congressional pressure, in addition to the economic merits and political considerations, was a factor in the President's decision. Senator Humphrey admittedly was a strong advocate of a price support increase in 1971 and introduced legislation to set the minimum level at 85% of parity. During 1971 and 1972, Senator Humphrey was first an unannounced and later an announced Presidential candidate, and the dairy producers, as they had traditionally done, provided substantial support to his Presidential campaign.

## C. SENATOR HUMPHREY'S ACTION IN MARCH, 1971

Senator Humphrey, a Democratic candidate for President in 1971-1972, was one of the legislators who supported the dairymen's position. On March 4, 1971, Senator Humphrey made a speech on the floor of the Senate declaring himself in favor of a 90% level of support. He said he contacted the Secretary of Agriculture on this.<sup>55</sup> He reiterated his position on March 9 and 10, and said he was again appealing to the Secretary of Agriculture. S. 1294, which would have mandatorily raised the support for the price of milk to 85% of parity, was introduced by Senator Humphrey on March 19, 1971.<sup>56</sup> George Mehren, then consultant to AMPI, met with Congressmen and Senators, including Humphrey, to discuss the need for a price increase.

<sup>54</sup> White Paper, 17 *Hearings* 8073.

<sup>55</sup> Humphrey speech, 25 *Hearings* 11879.

<sup>56</sup> See Senate bill, 25 *Hearings* 11880. Senator Humphrey's bill was one of 30 similar bills introduced in Congress in connection with the milk price level for the 1971-1972 marketing year.

According to Mehren, the object was to put pressure on the administration. Senator Humphrey met with David Parr, assistant to the general manager of AMPI, on February 23, 1971. Although Senator Humphrey's office provided copies of certain daily schedules for the Senator, a committee request of April 17, 1974, for other documents relating to this section has not been honored.

#### D. CONTRIBUTIONS BY DAIRY TRUSTS TO SENATOR HUMPHREY

Senator Humphrey was given \$17,225 by the dairy trusts in 1971 and 1972. This consisted of \$5,125 in 1971 and \$12,100 in 1972. Twelve thousand, five hundred dollars (\$12,500) of these amounts was given by TAPE and CTAPE (adjuncts of AMPI). In addition, the Humphrey campaign in 1971 received \$25,000 in corporate contributions from Associated Milk Producers, Incorporated by payment of bills of Valentine, Sherman and Associates as detailed in another section of this report. In all then, Senator Humphrey's campaign received over \$40,000 from dairy cooperatives in 1971 and 1972.<sup>57</sup>

### III. LARGE INDIVIDUAL CONTRIBUTIONS TO THE HUMPHREY CAMPAIGN BEFORE APRIL 7, 1972

#### A. SUMMARY

Until April 7, 1972, it was illegal under Federal law for anyone, with certain possible exceptions discussed below, to give more than \$5,000 in any calendar year to a Presidential candidate, or to any national level campaign committees operating in his behalf. More than one-half million dollars was contributed to the Humphrey Presidential campaign in 1971 and in 1972 (up to April 7) in the form of individual donations in excess of \$5,000. These donations were not subdivided among multiple committees.

The evidence shows that three types of entities operated as pre-April 7, 1972 campaign committees in the Humphrey Presidential campaign for the receipt of individual campaign contributions in excess of \$5,000. These three types of entities were:

(1) *A Partnership*.—Jackson & Co., a limited partnership, received four individual contributions of stock each of which was \$86,000 or more and sold the stock, distributing the proceeds to Backers for Humphrey, a Presidential committee.

<sup>57</sup> The contributions by cooperative political trust and date in 1971 and 1972 were:

SPACE (Dairymen, Inc.):	
April 24, 1972	\$1, 000
September 25, 1972	2, 500
Total	3, 500
ADEPT (Mid-America Dairymen, Inc.):	
February 4, 1971	125
April 21, 1972	1, 000
September 5, 1972	100
Total	1, 225
TAPE/CTAPE (AMPI):	
December 3, 1971	5, 000
April 6, 1972	1, 000
May 5, 1972	4, 000
August 16, 1972	2, 500
Total	12, 500
Grand total	17, 225

(2) *Formal Humphrey Campaign Committees.*—Backers for Humphrey, the principal pre-April 7, 1972 Humphrey Presidential campaign committee, received a number of individual contributions of money in excess of \$5,000 each. Backers for Humphrey was also the recipient of the proceeds from the four sales of stock by Jackson & Co., which alone exceeded \$360,000. In addition, other Humphrey campaign committees operating on behalf of his Presidential campaign received contributions in excess of \$5,000, including Volunteers for Humphrey and Humphrey for Senator Committee, which were used in 1971 and early 1972 for Humphrey's Presidential campaign.

(3) *A Trust Account.*—A trust account maintained by the incorporated law firm of Humphrey's campaign manager, Jack Chestnut, received a contribution in excess of \$5,000—a purported personal loan of \$100,000 from Paul Thatcher, Treasurer of Backers for Humphrey.

Aside from Thatcher, the major sources of the donated funds discussed above were a group of three individuals, including Dwayne Andreas, a Minnesota businessman, and a "blind trust" operated for the benefit of Senator Humphrey by its trustee, Andreas.

Months of delay were encountered in obtaining production of records from Minneapolis banks. Humphrey campaign financial records pre-dating April 7 were destroyed by Chestnut, and Chestnut has invoked the Fifth Amendment privilege against self incrimination when subpoenaed to testify under oath. Under circumstances described in Section I above, Senator Humphrey declined a request to be interviewed.<sup>58</sup> A request for documents from his office has not been fully met.

## B. INTRODUCTION

Until April 7, 1972, it was a felonious violation of Federal law for any person to make a political contribution in excess of \$5,000 during any calendar year to a Presidential candidate or to any national campaign committees operating on his behalf (18 USC 608).<sup>59</sup> This law, which is not known to have been the basis for any criminal prosecution, was repealed by Section 203 of the Federal Election Campaign Act of 1971 (Public Law 92-225); however, its applicability before

<sup>58</sup> See attachment No. 1, p. 899. It is Senator Humphrey's position that the requests in the Ervin letter were limited to the Valentine, Sherman letter.

<sup>59</sup> Section 608. Limitations on political contributions and purchases:

(a) Whoever, directly, or indirectly, makes contributions in an aggregate amount in excess of \$5,000 during any calendar year, or in connection with any campaign for nomination or election, to or on behalf of any candidate for an elective Federal office, including the offices of President of the United States and Presidential and Vice Presidential electors, or to or on behalf of any committee or other organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

This subsection shall not apply to contributions made to or by a State or local committee or other State or local organization or to similar committees or organizations in the District of Columbia or in any Territory or Possession of the United States.

(c) In all cases of violations of this section by a partnership, committee, association, corporation, or other organization or group of persons, the officers, directors, or managing heads thereof who knowingly and willfully participate in such violation, shall be punished as herein provided.

(d) The term "contribution", as used in this section, shall have the same meaning prescribed by section 591 of this title.

April 7, 1972, during 1971 and the early months of 1972, was one reason why some of the Presidential candidates engaged in the practice of constituting multiple committees. By having a host of such committees available for the receipt of contributions, a wealthy donor could divide a large contribution into \$5,000 increments to each of such committees and thus avoid the applicability of Section 608. Another consideration, of course, was the gift tax law which requires the payment of a tax on any donation to a political committee in excess of \$3,000. Because of the joint applicability of Section 608 and the gift tax law, donors customarily subdivided their contributions into \$2,500 allotments, together with a \$2,500 donation from a spouse.

### C. BACKGROUND

The Presidential campaign of Senator George McGovern,<sup>60</sup> and the Finance Committee To Re-Elect the President each eventually constituted hundreds of committees to circumvent the provisions of these laws. Indeed, it was Section 608 which initially caused such intense concern and difficulty for the Committee To Re-Elect the President (CRP) and the Associated Milk Producers, Inc. (AMPI) in managing the dairy producers' contributions to CRP. The \$100,000 which AMPI gave to Herbert Kalmbach in 1969, apparently for the benefit of the President's re-election, was belatedly recognized as being in violation of Section 608. Because of a desire for secrecy, the officials of AMPI contrived an elaborate system of repaying the \$100,000 which had been taken from their political action trust. An official of AMPI made a personal bank loan to repay the sum, then repaid the loan with funds he obtained from AMPI attorneys and consultants, who appear to have obtained reimbursement by increasing their billings to AMPI. Still later, the AMPI political action trusts, TAPE and CTAPE, were confronted with the need for a great number of committees functioning on behalf of the reelection effort for President Nixon, and the reelection campaign officials encountered many difficulties in constituting enough committees to receive subdivided contributions.

The Humphrey campaign officials did not make the effort to create numerous committees. An examination of bank records has revealed evidence and led to other documentary disclosures which show that several donors to the Humphrey Presidential campaign made very large contributions to but one campaign entity, seemingly (1) in disregard of the strictures of Section 608, (2) in ignorance of Section 608, or (3) with some understanding that their contribution constituted an exception.<sup>61</sup> Well over one-half million dollars was infused into the Humphrey campaign shortly before April 7, 1972, in the form of individual contributions in excess of \$5,000. Senator Humphrey also

<sup>60</sup> See, e.g., executive session testimony of Marian Pearlman, 25 *Hearings* 12173, and Miles Rubin, 25 *Hearings* 12137.

<sup>61</sup> Section 608(a) exempts by its terms contributions to a "State or local committee or . . . organization or to similar committees or organizations in the District of Columbia." The question arises as to the scope of this exemption which was added on the floor of Congress in 1940 and made part of amendments to the Hatch Act. Thus, the question arises as to what is a "state or local" committee that is "engaged in furthering . . . the nomination or election" of a candidate for the office of President. There appears to have been no prosecution relating to contributions in excess of \$5,000 at least in part, according to the Department of Justice, because of the ambiguity of the exemption. It should be noted that FCRP established numerous campaign committees which were organized in the District of Columbia, which banked in the District of Columbia, and which had officers who lived or were employed in the District of Columbia, to receive multiple contributions from individuals as well as organizations such as TAPE (which are not subject to gift tax).

utilized assets from a "blind trust"—which he had created in 1965—to provide two separate sums of \$23,000 and about \$86,000 of his own money to his own campaign in January and February of 1972.

As of April 7, 1972, it became unlawful for a Presidential candidate to use personal funds in excess of \$50,000. Prior to that time, the only limitation on contributions was found in Section 608. There have been no prosecutions under this section with respect to a candidate's contributions to or expenditures for his own campaign, and the committee knows of no construction of the section applying it to a candidate's use of his own funds.

#### D. THE HUMPHREY PRESIDENTIAL CAMPAIGN TAKES FORM—HUMPHREY VOLUNTEER COMMITTEE; FRIENDS OF HUMPHREY COMMITTEE

A formal announcement of Presidential candidacy was not made by Senator Humphrey until January 10, 1972. Activity in contemplation of a Presidential campaign had begun by Senator Humphrey and by others on his behalf in 1971 and his interest in the Presidency was widely reported. For example, in the fall of 1971, a selected number of persons were invited to meet in Minneapolis with Senator Humphrey and his top campaign personnel. At this function, many of these individuals committed themselves to a certain level of contribution to the Senator in the event he announced his candidacy. (Officials of AMPI stated at that time their organization would be committed to the extent of \$50,000.) During 1971, some bank accounts were opened in Minnesota by the Humphrey campaign organization, and although they did not bear a title to readily reflect their relationship to a Presidential campaign (Humphrey Volunteer Committee; Friends of Humphrey Committee), checks were drawn on these accounts to pay Presidential campaign expenses.<sup>62</sup> These accounts were closed just prior to April 7, 1972.

#### E. HUMPHREY FOR SENATOR COMMITTEE—CONTINUED USE

The Humphrey for Senator Committee<sup>63</sup> which had been utilized for Senator Humphrey's Senatorial campaign in 1970, was continued as an active account by the Humphrey organization into 1972. It was used to pay Presidential campaign expenses, \$50,000 was deposited to it as late as February 28, 1972, and it was closed on April 10, 1972, three days after the effective date of the Federal Election Campaign Act of 1971. S. Harrison Dogole, a financial backer of Senator Humphrey, wrote three checks which were deposited to the committee's account in the total amount of \$85,000 (\$10,000 on May 21, 1971; \$25,000 on July 26, 1971; and \$50,000 on February 28, 1972), although the July 26 check was payable to Volunteers for Humphrey.<sup>64</sup>

#### F. USE OF THE CHESTNUT LAW FIRM TRUST ACCOUNT

Presidential campaign expenses were also paid by checks written on the Minnesota bank account of a trust maintained by the incorporated law firm<sup>65</sup> of Humphrey's campaign manager, Jack Chest-

<sup>62</sup> A \$25,000 deposit to the Humphrey Volunteer Committee on April 20, 1971, and a \$10,000 deposit to the same committee on June 25, 1971, were in cash. See "Humphrey Volunteer Committee" deposits, 25 *Hearings* 11881.

<sup>63</sup> Jack Chestnut was Treasurer of this Committee and signator of the bank account.

<sup>64</sup> Dogole checks, 25 *Hearings* 11883.

<sup>65</sup> Chestnut, Brooks, and Burkhard of Minneapolis, Minnesota.

nut. For example, trust account funds were used to make a \$25,000 payment to Valentine, Sherman Associates for computer work for the Humphrey Presidential campaign.<sup>66</sup> These expenditures were funded in January of 1972 by a \$100,000 check deposited to the Chestnut trust account and drawn on the personal checking account of the Humphrey organization treasurer, Paul Thatcher.<sup>67</sup> Chestnut then paid Presidential campaign expenses by drawing checks on this law firm trust account.

A few weeks later, on January 31, 1972, the Chestnut trust account issued a check for \$100,000 to Thatcher individually, apparently in repayment of what appears to have been a \$100,000 loan to the campaign.<sup>68</sup>

#### G. BACKERS OF HUMPHREY COMMITTEE—JACKSON AND COMPANY

The Chestnut law firm trust account was enabled to make this repayment to Thatcher because of the receipt of a \$100,000 check<sup>69</sup> on the same day (January 31, 1972) from Backers of Humphrey, a Humphrey campaign committee which had just been constituted that month,<sup>70</sup> and which appears to have been a major pre-April 7, 1972 committee. Backers was organized in Minnesota, its officers (and candidate) were from Minnesota, and it banked in Minnesota. However, it supported a candidate for national office, its officers—Chestnut and Thatcher—were the national campaign officers, and it both received contributions from outside the State and expended money outside the State for national campaign purposes. It had a maximum bank balance of \$101,000, total deposits of \$674,063, and was closed on April 12, 1972.<sup>71</sup> It was undoubtedly the committee which received the greatest infusion of funds before April 7, 1972. \$471,725 of the receipts of Backers of Humphrey were transferred from Jackson and Company, a partnership established by the campaign primarily to process the sale of stock contributions.<sup>72</sup>

<sup>66</sup> See January 11, 1972 Chestnut check, 25 *Hearings* 11886.

<sup>67</sup> See January 11, 1972 Thatcher check, 25 *Hearings* 11887.

<sup>68</sup> See January 31, 1972, check to Thatcher, 25 *Hearings* 11888. (A contribution is defined, for the purposes of Section 608, as including a loan.)

<sup>69</sup> See January 31, 1972, "Backers" check, 25 *Hearings* 11889.

<sup>70</sup> Chestnut and Thatcher were authorized signators on the account of Backers of Humphrey. Thatcher signed the January 31, 1972 check for \$100,000. Thatcher, individually, donated \$50,000 to Backers of Humphrey on March 7, 1972. See Backers deposit slip dated March 7, 1972, and Thatcher check dated March 1972, 25 *Hearings* 11890.

<sup>71</sup> See "Backers" authorization card and bank statements, 25 *Hearings* 11892.

<sup>72</sup> Thatcher and LaDonna Hagan were partners in this entity. Although Thatcher stated during an early interview that the partnership was created to process stock contributions, investigation revealed that more than \$50,000 was received by Jackson and Company in the form of donors' checks, mostly in the amounts of \$5,000. Jackson and Company appears to have functioned as a conduit for these contributions. The funds were forthwith transferred to Backers of Humphrey, although the checks were actually payable to various other committees. Some of these transactions were:

Samuel Rothberg issued a \$5,000 check to Friends of Humphrey Committee dated, February 24, 1972, and a \$5,000 check to the District of Columbia Committee for Humphrey dated February 25, 1972. Both checks were deposited to Jackson and Company on February 28, 1972, and on the same date \$14,925 was transferred by Jackson and Company to Backers of Humphrey. See March 14, 1974, Walters letter, 25 *Hearings* 11897.

M. Phillips and J. Phillips issued checks for \$5,000 and \$10,000 respectively, to the Humphrey campaign. They were deposited to Jackson and Company on February 29, 1972, and on the same day \$15,000 was transferred by Jackson and Company to Backers of Humphrey. See March 20, 1974, Walters letter, 25 *Hearings* 11903.

Garrett G. Carlson wrote one \$5,000 check to each of the following five committees, all dated March 24, 1972: National Humphrey for President Committee, National Humphrey Volunteer Committee, National Citizens for Humphrey Committee, National Draft Humphrey Committee, and National Humphrey Friends Committee. However, they were all deposited to the Jackson and Company account on March 27, 1972; and on the same date Jackson and Company transferred \$35,000 to Backers of Humphrey. See April 8, 1974 Walters letter, 25 *Hearings* 11907, re Jackson and Co. See executive session testimony of Ben E. Fellows, 25 *Hearings* 11765.

H. ARCHER-DANIELS-MIDLAND SHARES CONTRIBUTED—THE HUMPHREY  
“BLIND TRUST”<sup>73</sup>

The predominant portion of funds transferred to Backers of Humphrey from Jackson and Company came from the sale of shares in Archer-Daniels-Midland Company (ADM), the firm headed by Dwayne Andreas.<sup>74</sup> These shares were aggregated from the donations of Dwayne Andreas, Sandra A. McMurtrie (Andreas' daughter), Doris Hastings (an Andreas friend in Florida), and the Humphrey “blind trust” created in 1965 and for which Andreas served as trustee. The total number of shares thus contributed to Jackson and Company in December of 1971 was 10,500 (3,000 shares from McMurtrie and 2,500 shares from each of the others).<sup>75</sup> The stock was sold between January 17 and 24, 1972, at around \$35 per share to produce a total net receipt of \$362,046.30.<sup>76</sup> Thus, Andreas and Hastings each donated about \$86,000; McMurtrie about \$104,000; and Senator Humphrey's blind trust about \$86,000.<sup>77</sup> In three installments (\$150,000 on January 31, 1972; \$40,000 on February 4, 1972; and \$166,800 on February 10, 1972), Jackson and Company transferred \$356,800 to Backers of Humphrey.<sup>78</sup> Soon thereafter, Backers transferred \$80,000 to a Humphrey for President account in the National Bank of Washington, D.C. (\$50,000 on January 31, 1972, and \$30,000 on February 16, 1972).<sup>79</sup> At least to this extent Backers of Humphrey appears to have been serving as a conduit for the Washington, D.C. committee.

The Humphrey blind trust transferred an additional \$23,000 to the Humphrey campaign in February of 1972.<sup>80</sup> This sum came from funds on deposit in a savings account of Interatah and Company, a limited partnership acting as nominee or agent for the trust. At the direction of Dwayne Andreas, Interatah and Company issued its check for \$23,000 to Backers of Humphrey on February 15, 1972.<sup>81</sup>

### I. AFFIDAVITS OF ANDREAS, HASTINGS, MCMURTRIE

Andreas, Hastings, and McMurtrie have submitted affidavits concerning their individual contributions, and Andreas has submitted an affidavit in his capacity as trustee for Senator Humphrey.<sup>82</sup> The individuals' affidavits are in virtually identical language. They each state

<sup>73</sup> A “blind” trust is a trust in which the trustee exercises his powers in a manner so that the beneficiary does not become knowledgeable of the investments held and managed. Legislators make use of this device to preclude suggestions that their legislative decisions and other official actions are influenced by their financial holdings.

<sup>74</sup> Archer-Daniels-Midland is the largest domestic soybean processor and one of the largest U.S. flour millers, operating in many states and foreign countries and producing more than 400 agricultural products. Andreas was also Chairman of the Board of First InterOceanic Corp., now Independent Bancorporation, a bank holding company in which Paul Thatcher is the Executive Vice President. Independent Bancorporation is a wholly owned subsidiary of Archer-Daniels-Midland.

<sup>75</sup> See Walters/Dash correspondence, 25 *Hearings* 11918.

<sup>76</sup> See confirmations on sale of Archer-Daniels-Midland stock, 25 *Hearings* 11929.

<sup>77</sup> Counsel for Senator Humphrey on March 26, 1974 gave Select Committee counsel a brief view of a copy of a gift tax return for Senator Humphrey, executed in August of 1973. The return showed the gift of \$91,000 from the sale of stock. He did not produce returns for Hastings, Andreas, and McMurtrie as he had offered to do, perhaps because committee counsel would not agree to his pre-condition that no use or disclosure would be made of them, but stated that such returns existed.

<sup>78</sup> See “Backers” checks and deposit tickets, 25 *Hearings* 11939.

<sup>79</sup> See “Backers” transfer of funds, 25 *Hearings* 11945.

<sup>80</sup> Counsel for Senator Humphrey, also on March 26, 1974, gave Select Committee counsel a brief view of a copy of a gift tax return for Senator Humphrey, executed in August of 1973, showing a gift of \$23,000.

<sup>81</sup> See Interatah check and deposit to “Backers”, 25 *Hearings* 11947.

<sup>82</sup> See Walters/Dash correspondence, 25 *Hearings* 11918.



that the affiant donated Archer-Daniels-Midland stock to the Humphrey campaign in December of 1971 and that it was delivered to Jackson and Company as agent for the purpose of converting it to cash and distributing the proceeds "as directed by various Humphrey committees." The affidavits recite that the ADM stock was contributed voluntarily, was a part of the affiants' personal estate, and that the affiants did not act in the name of, or as conduits for, any other party.

The affidavits of Hastings, McMurtrie and Andreas (as an individual) do not deal with such questions as how the ADM stock was acquired by Hastings and McMurtrie, how they came to make virtually identical, substantial and almost simultaneous contributions, the role of Archer-Daniels-Midland in these events, or the role of Andreas with respect to the Hastings and McMurtrie contributions, to whom or which committee they understood the contribution would go, whether Section 608 or gift tax laws were considered and, if so, how.<sup>83</sup>

Andreas' affidavit as trustee for Senator Humphrey avers that the Trust was established by Senator Humphrey and was funded by his personal assets "in which no other person had any interest." Continuing, he states that in December of 1971, Senator Humphrey requested "that appropriate distributions be made from the assets of the Trust for the benefit of his campaign," so Andreas delivered 2,500 shares of ADM stock to Jackson and Company as agent for the purpose of converting the stock to cash and "distributing the proceeds to various Humphrey committees." Andreas states that the stock was a part of the Trust's assets and that he did not act in the name of any party except as trustee for Senator Humphrey. In February of 1972, again as trustee for Humphrey, Andreas distributed \$23,000 to the Humphrey campaign from funds on deposit in a savings account in the name of Interatah and Co. acting as nominee or agent for the Trust. Andreas avers that the \$23,000 was a part of the Trust's assets and the property of Senator Humphrey by virtue of his beneficial interest in the Trust.<sup>84</sup>

In response to a committee request for data concerning additions to the trust of Senator Humphrey during 1971 and 1972, Senator Humphrey's attorney provided affidavits from accountants who have reviewed relevant financial records which showed that the only additions to the trust came from Senator Humphrey's own funds.<sup>85</sup>

As previously noted Senator Humphrey (or his trustee) appears to have paid gift tax on these political contributions. Senator Humphrey's attorney has advised the committee that the gift tax was paid out of an abundance of caution. As to the relevance of Section 608,

<sup>83</sup> Subsequent to the receipt of affidavits, Counsel for the donors advised the Committee that the donors intended to have their Archer-Daniels-Midland stock contributions subdivided into multiple committee contributions of \$5,000. However, the Committee is not aware of the existence of a sufficient number of Humphrey campaign committees at that time to receive the contributions in units of \$5,000 or less.

<sup>84</sup> See Walters/Dash correspondence, 25 *Hearings* 11918. Although the cover letter of Mr. Joe A. Walters transmitting the affidavits asked that the identities of the affiants be kept confidential, Andreas is well known as a wealthy contributor to political campaigns; and persons of probable affinity to Hastings and McMurtrie are listed in a publication of the Citizens' Research Foundation as contributors to Democratic committees. A Lawrence Hastings of Miami Beach is publicly reported as donating \$2,000 to McGovern. A William McMurtrie of the same address as Sandra McMurtrie is shown to have donated \$5,000 to the Democratic National Committee.

<sup>85</sup> See Tang and Devillier affidavits, 25 *Hearings* 11949. At the same time Senator Humphrey's attorney advised the Committee (by letter of July 2, 1974) that the trust "acquired the ADM stock on November 10, 1969."

that statute has never been construed by the courts and, in any event, the committee is aware of no authority that it has any applicability to a candidate's contribution to or expenditure for his own campaign.

### J. CHESTNUT INTERVIEWS

When subpoenaed to testify under oath on April 11, 1974, Humphrey's campaign manager Jack Chestnut invoked his fifth amendment privilege against self-incrimination and refused to testify.<sup>86</sup> When he had been interviewed without oath on October 18, 1973,<sup>87</sup> before most of the above information was developed by this committee, he most of the above information was developed by this committee, he said he had no knowledge of any donors who desired anonymity, nor of any contribution of \$1,000 or more by a third party so as to protect the identity of the true donor. He stated then that the Humphrey campaign public disclosure of contributors did not withhold the identities of any persons who had asked for anonymity.<sup>88</sup> Chestnut told the committee staff he "could not be sure" of the identity of any Minneapolis bank depositories for the Humphrey campaign.<sup>89</sup>

In fact, he had been an authorized signator on the Minneapolis bank accounts of the Backers of Humphrey Committee, Humphrey Volunteer Committee, Friends of Humphrey Committee, Telephone Account, and Humphrey for Senator Committee, as well as the treasurer for this last committee. And he made no mention of the use of his own law firm trust account as campaign depository.

### K. INVESTIGATIVE DELAYS

The documentary evidence concerning the large contributors to the Humphrey campaign in early 1972 was pieced together from an examination of the records of numerous bank accounts uncovered as a result of a staff examination of the records of Valentine, Sherman Associates, a Minneapolis firm specializing in computer services for political campaigns. The firm had received corporate contributions for the benefit of the Humphrey campaign account. This discovery of the bank accounts and the acquisition of records was not accomplished until well into 1974. Many delays were encountered in production of records in compliance with subpoenas.<sup>90</sup> After tentative agreement in conference with the donors' counsel, he took more than four weeks to furnish the identities of Andreas, Hastings, and McMurtrie

<sup>86</sup> Chestnut, 17 *Hearings* 7700.

<sup>87</sup> Chestnut, 25 *Hearings* 11719.

<sup>88</sup> Senator Humphrey's own contributions through the Trust of more than \$100,000 were not included in the public disclosure of March 14, 1972 as reported by the Citizens' Research Foundation listing of "Political Contributions of \$500 or more Voluntarily Disclosed by 1972 Presidential Candidates." Andreas is listed at only \$75,000; Dogole at only \$50,000; and Thatcher at \$25,000. In addition to contributions already set forth herein, Andreas contributed \$15,000 to the "Humphrey Volunteer Committee" by check dated December 14, 1971, signed LaDonna Hagan. (See Andreas check, 25 *Hearings* 11953.) (Hagan also served in the Humphrey campaign. She had a drawing authority on campaign accounts, was an authorized signator for Interatah and Company, and was one of the limited partners of Jackson and Company.) Ben Fixman contributed \$37,499 to the Humphrey campaign in 1971 and is not listed in CRF. See Fixman checks, 25 *Hearings* 11956. CRF does not list Garrett G. Carlson nor the Phillips mentioned herein. See footnote sub-section H, *supra*.

<sup>89</sup> The questions and answers were:

SANDERS. Were any Minneapolis banks used as depositories?

CHESTNUT. That is possible.

SANDERS. Do you know the identities of any?

CHESTNUT. I really could not be sure.

Chestnut, 25 *Hearings* 11729.

<sup>90</sup> See committee memos re VSA, 25 *Hearings* 11960.

along with their affidavits. Chestnut's refusal to testify under oath when subpoenaed on April 11, 1974 prevented the staff from obtaining a full explanation of the campaign's solicitation and handling of these donations. As explained in section I above, in response to a committee request, Senator Humphrey declined to meet with a member of the committee for interview.<sup>91</sup>

A committee letter to Senator Humphrey's Administrative Assistant dated April 17, 1974 asked for the production of various categories of documents, one of which was communications with Jack Chestnut, Paul Thatcher, and Dwayne Andreas in regard to the Presidential campaign.

This letter was answered on May 23, but certain documents requested have still not been produced.<sup>92</sup>

#### L. DESTRUCTION OF FINANCIAL RECORDS

Virtually all of the Humphrey campaign pre-April 7 financial records were destroyed by Chestnut in the summer of 1972. There was no legal obligation to retain campaign financial records under the law existing before April 7, 1972. However, such wholesale destruction necessarily raises a question of motive and propriety, as expanded upon by Chairman Ervin in an exchange with Maurice Stans:

Senator ERVIN. In other words, you decided that the right of the contributors to have their contributions concealed was superior to the right of the American citizens to know who was making contributions to influence the election of the President of the United States.

Mr. STANS. We did not evaluate it in those terms. We evaluated it in the terms that it was the Congress of the United States in 1925 that gave the option to a contributor to remain anonymous and that we had no right to give away his anonymity.

Senator ERVIN. Well, Mr. Stans, do you not think that men who have been honored by the American people, as you have, ought to have their course of action guided by ethical principles which are superior to the minimum requirements of the criminal laws?

Mr. STANS. I do not have any quarrel with that, but there is an ethical question in whether or not I can take your money as a contributor with an understanding on your part that you are entitled to privacy in that contribution and then go around and release the figure to the public.

Senator ERVIN. Well, all the law said, as you construe it, as your counsel construed it, was that you did not have to make a public reporting of these contributions. The law did not require you to destroy the records of those contributions, did it?

Mr. STANS. Mr. Chairman, the law did not even go that far. The law did not even require us to keep any records during that period of time, on the advice of my attorney.

<sup>91</sup> See attachment No. 1, p. 899.

<sup>92</sup> See Gartner/Dash correspondence, 25 *Hearings* 11816.

Senator ERVIN. But the law did not require you to destroy the records you did keep?

Mr. STANS. No, of course not. That would be a silly proposition.

Senator ERVIN. Well, do you think that men who exercise great political power, as you exercised it and as a former Attorney General of the United States was exercising it and as other people engaged in this committee work, that they ought to disregard ethical principles and say they have fulfilled their full duty to the American people as long as they keep on the windy side of the law?

Mr. STANS. Senator, I haven't said that and I would not say it. I am saying that I think we have to balance one ethical principle against another, the right of privacy of an individual as against the right of the public to know.

The Congress has recognized that there is a problem. That is why it passed a new law. There was no reason that I know of why we should have anticipated the date that law was effective. The Congress, Mr. Chairman, gave us 60 days after the law was effective to operate under the old law.<sup>93</sup>

#### M. PERSPECTIVE AND DISPOSITION

The desire of wealthy political contributors to remain anonymous has been long recognized as reasonable and justifiable. However, the public right to know has been gaining ascendancy over the individual's right to privacy in this respect. A statutory limitation on the amount of an individual contribution, as well as on a candidate's use of personal funds, and stringent reporting requirements, undoubtedly have value in reducing the potential for subtle and surreptitious abuses.

On April 11, 1974, the United States Senate passed and sent to the House of Representatives S. 3044, an Act known as the Federal Election Campaign Act Amendments of 1974. By continuing in effect the \$50,000 limitation on the use of a Presidential candidate's personal funds—which first became effective on April 7, 1972—S. 3044 expresses the judgment of the Senate that the use of personal funds in greater amounts might provide a breeding ground for abuse. Moreover, this new Act will require any loan or advance from a candidate's personal funds to be evidenced by a written instrument fully disclosing the terms and conditions. While the Federal Election Campaign Act of 1971 (which became effective April 7, 1972)<sup>94</sup> did not include any limitation on the amount which could be given to a candidate's campaign (other than from the candidate's own funds), and earlier statutes had no effective limitations at all, Section 304 of S. 3044 will prohibit contributions to a campaign in excess of \$3,000. It will also be a violation for a candidate to knowingly accept a contribution which, when added to the sum of all other contributions from that donor,

<sup>93</sup> Stans, 2 *Hearings* 755.

<sup>94</sup> The facts reported herein have not been the subject of inquiry by the General Accounting Office since they occurred before April 7, 1972, the date of commencement of GAO jurisdiction. GAO audits reports reviewed many alleged violations, irregularities, and deficiencies in the Humphrey campaign after April 7, 1972, some of which were referred to the Attorney General and the Internal Revenue Service for consideration. These will not be restated or reviewed. See, for example, executive session interviews of Ben E. Fellows, 25 *Hearings* 11765, and Joseph E. Cole, 25 *Hearings* 11787.

exceeds \$3,000. Again, the Senate has thus expressed a collective judgment that these limitations will serve some useful purpose in eliminating various kinds of abuses which can be inherent in a candidate's acceptance of larger contributions from any one individual.

#### IV. CONTRIBUTION FROM MINNESOTA MINING AND MANUFACTURING COMPANY

##### A. SUMMARY

Minnesota Mining and Manufacturing Co. (3 M) maintained a secret cash fund for making political contributions, one source of which was a European consultant who billed 3 M for services not rendered. The consultant, by previous arrangement initiated by top executives of 3 M, then remitted to 3 M his receipts from these billings. In February of 1972, a Humphrey fund-raiser solicited a contribution from an official of 3 M. The decision to provide financial assistance was deferred until April of 1972 when ten 3 M officers each bought a \$100 ticket to a Humphrey fund-raising affair. The ten individuals were subsequently reimbursed from 3 M's secret fund.<sup>95</sup>

##### B. THE CONTRIBUTION

For many years the executives of Minnesota Mining and Manufacturing Co. maintained a fund for making political contributions. Mr. Harry Heltzer became chairman and chief executive officer of 3 M in 1970. At about that time he became aware of the existence of this fund, although he did not learn precisely the mechanics of how corporate money was channeled to it.

Wilbur Bennett, Director of Civic Affairs for 3 M, explained that an agreement was reached with a European consultant whereby the consultant would submit false invoices to 3 M for services when actually no services had been rendered. The consultant was paid by 3 M, and the item was accounted for as an ordinary business expense. The consultant returned the payments to 3 M in the form of cash which was kept under the control of 3 M executives. Specifically, it was maintained in the custody of Mr. Irwin Hansen, 3 M's Director of Finance. The established procedure for release of contributions from this fund was that the chief executive officer would give his authorization on contributions recommended to him, and this would be presented to Hansen who would then provide the authorized amount of cash.

In February of 1972, the Humphrey for President campaign solicited a contribution from Jerome Schaller, the Manager of Governmental Relations in 3 M's Washington, D.C. office, for a fund-raising dinner to be held in Florida. However, in a letter to Patrick J. O'Connor, a Humphrey fund-raiser, dated February 24, 1972,<sup>96</sup> Schaller declined the request, stating that his 3 M colleagues felt that a similar affair on behalf of Senator Humphrey would be held soon in Minnesota and that they expected to be "... asked to contribute substantially at that time."

<sup>95</sup> This section is principally based on affidavits of officers of 3 M, supplemented by staff interviews.

<sup>96</sup> See February 24, 1972, Schaller letter, 25 *Hearings* 11973.

An informal \$100 per person affair for Senator Humphrey was scheduled at the Radisson South in Minnesota on April 13, 1972. Thereupon, Schaller wrote a memorandum to D. O. Opstad and W. M. Bennett dated March 16, 1972,<sup>97</sup> to suggest that ten people in 3 M contribute to the dinner. Schaller further advised that the "... price makes the donation non-reportable." Opstad referred the memorandum to Mr. Bennett with a notation that Humphrey "... seems to be *well* financed, but we may find it politic to support the Mpls [Minneapolis] affair."

Mr. Heltzer told the committee during interview that although he does not recall seeing the March 16, 1972 memorandum from Schaller, he does recall that Bennett informed him orally of the memorandum. Upon approval of the contribution, Schaller wrote a memorandum to Opstad and Bennett dated April 7, 1972<sup>98</sup> to advise that the checks for the Humphrey fund-raising dinner were to be made out to the "Humphrey Dinner Committee." Bennett subsequently collected \$100 checks from ten different 3 M corporate officers, each of whom attended the dinner and was reimbursed for the expenditure in cash from the secret fund in Hansen's custody. The contributors had the understanding that the money had come from a company executive fund. Bennett does not remember the names of the individuals who made the \$100 contributions; however, he is certain that he, Heltzer, and Schaller were not among the ten.

Bennett is uncertain in his recollection of the delivery of the \$1,000 to the "Humphrey Dinner Committee." Bennett indicated to the committee during interview that the ten \$100 checks were given to an individual whose identity Bennett does not remember, who was handling the tickets for the Humphrey fund-raising dinner. Bennett gave the committee no indication that anyone in the Humphrey campaign was aware of the corporate source of this contribution.

On October 17, 1973, the 3 M Corp. and Mr. Heltzer entered pleas of guilty to misdemeanor violations of the Federal Corrupt Practices Act, relating to the making of similar contributions to FCRP.<sup>99</sup> The basis of the charge was contributions which had been made from the secret corporate fund to the Committee To Re-Elect the President. The corporation was fined \$3,000, and Heltzer was fined \$500.

## V. CONTRIBUTION OF \$50,000 BY JOHN L. LOEB, SR.

### A. SUMMARY

In May of 1972, in an effort to generate additional funds for the California primary, Senator Hubert H. Humphrey met in New York City with Mr. John L. Loeb, Sr., senior partner of Loeb, Rhoades, and Co. (investment brokers). Senator Humphrey personally solicited a contribution from Loeb, and Loeb agreed to give \$50,000. Senator Humphrey's campaign manager, Jack L. Chestnut, spoke with Loeb to explain the financial condition of the campaign and according to Loeb's attorneys, they discussed "mechanics of the contributions." On the following day Chestnut called Loeb's secretary, Arthur Griffiths,

<sup>97</sup> See March 16, 1972, Schaller memo, 25 *Hearings* 11974.

<sup>98</sup> See April 7, 1972, Schaller memo, 25 *Hearings* 11975.

<sup>99</sup> See Report on Campaign Financing—Corporate Contributions.

to give him a list of committees for the contribution. Pursuant to a conference with Loeb, Griffiths then asked some office employees of Loeb, Rhoades, and Co. if they were willing to contribute to Humphrey and to be reimbursed for such by Loeb.

Seven persons each wrote two personal checks in the amount of \$3,000 each, and one person wrote a check in the amount of \$6,000, all payable to Humphrey campaign committees, for a total of \$48,000. Griffiths transferred corresponding amounts from Loeb's account to the bank accounts of each of these persons and in addition, Loeb added \$2,000 in cash to make a total package of \$50,000. This was handed to C. Bruce Solomonson, Senator Humphrey's son-in-law, who delivered it to the Humphrey campaign comptroller, Paul Thatcher.

The next Humphrey campaign committee report to the General Accounting Office, on May 24, 1972, listed these contributions as being made by the respective payors on the checks, but the \$2,000 in cash was not reported until June 10, after the transaction had been called into question by GAO. After some reports by the news media and inquiry by GAO, letters were sent by Mr. and Mrs. Loeb to each of the recipient campaign committees advising that the Loebes were the true donors. Thatcher then notified GAO that the committee reports should be amended to show Mr. and Mrs. Loeb as the true donors, each in the amount of \$24,000.

On April 7, 1972, a new Federal election law had become effective making it illegal for any person to make a contribution in the name of another, or to accept a contribution by one person in the name of another. On May 31, 1973, Mr. Loeb entered a plea of *nolo contendere* to violations of this election law (Section 440 of Title 2, United States Code) and was fined \$1,000 on each of three counts.

#### B. SENATOR HUMPHREY MEETS WITH LOEB—THE SOLICITATION

On May 10, 1972, Senator Humphrey met Mr. John L. Loeb, Sr. in New York City for the purpose of soliciting financial assistance for the Senator's Presidential campaign. According to Paul Thatcher, the campaign comptroller, several days before the meeting, someone on the campaign finance committee suggested to him that he set up a meeting between Humphrey and Loeb, who had been a supporter of Humphrey for many years. Thatcher said he called Loeb and spoke directly with him to make the appointment. Since Senator Humphrey's schedule anticipated that he would be in New York City on May 10, the meeting was fixed for that time.

Although, as discussed in Section I above, Senator Humphrey declined to be interviewed when requested by the Select Committee,<sup>100</sup> the staff had access to a report of an interview with him by the FBI on May 17, 1973. Contrary to Thatcher's account, the Senator advised the FBI that he contacted John Loeb, asked him to meet him in New York City, fixed the date for May 10, and then met with Loeb on that date in the Waldorf Astoria. Senator Humphrey spoke with Loeb alone and told Loeb that he would be grateful for financial assistance. Loeb said he would be of help but, according to Senator Humphrey, no details were mentioned. It was understood that Jack L. Chestnut, Senator Humphrey's campaign manager, would talk with Loeb.

<sup>100</sup> See attachment No. 1, p. 899. It is Senator Humphrey's position that the requests in the Ervin letters were limited to the Valentine, Sherman matter.

In an unsworn staff interview on October 18, 1973, Chestnut stated that he was in the company of Senator Humphrey with several other persons in New York City on May 10, 1972. The group was in New York City for campaign purposes. Senator Humphrey told Chestnut that they would meet with Loeb. The group, which included C. Bruce Solomonson, Senator Humphrey's son-in-law, and Max Kampelman, a Humphrey campaign advisor, went to a hotel suite which Chestnut thought was Mr. Andreas' where Senator Humphrey talked with Loeb. According to Chestnut, he and Solomonson were in a different room when Humphrey talked with Loeb, after which Senator Humphrey called on him to explain the financial condition of the campaign to Loeb. Chestnut told Loeb an immediate donation was needed whereupon Loeb said he "would arrange for \$50,000 to be picked up tomorrow." Although Chestnut said there was no discussion of how the \$50,000 would be accumulated, Loeb's attorneys aver that Senator Humphrey suggested Loeb speak with Chestnut "with respect to the mechanics of the contributions to be made," and that "Mr. Loeb did so." Furthermore, at the time of Loeb's sentencing, his attorneys complained to the Court that at Loeb's meeting with Senator Humphrey and Chestnut, "No one called the existence of Section 440 to Mr. Loeb's attention, or raised any question as to the procedure which Mr. Loeb used."<sup>101</sup>

An FBI report of an interview with Loeb on May 8, 1973, reflects that Loeb said that in meeting with Senator Humphrey on May 10, 1972, he agreed to be responsible for a \$50,000 contribution to assist Humphrey in the California primary.<sup>102</sup> Loeb said he desired anonymity because he did not want to be known publicly as a wealthy donor. Although Chestnut and Kampelman were in the Waldorf Astoria suite at the time of Loeb's conversation with Humphrey, they were not privy to the conversation. When Loeb asked Humphrey, "How shall I go about this," Humphrey said the matter should be discussed with Chestnut. Loeb then asked Chestnut to contact his secretary, Arthur Griffiths.

Soon after the meeting Chestnut notified Thatcher that Loeb would give \$50,000 which should be picked up the next day in Loeb's office.

### C. ASSEMBLING THE CONTRIBUTION

The next day, May 11, Loeb asked Griffiths to find some office employees who would be willing to make a contribution to Humphrey. Loeb said the device of making his contributions through employee intermediaries was his own idea. Also during this day Chestnut called Griffiths and told him that Loeb suggested he call and that Griffiths should make arrangements for \$50,000 to be given to Humphrey. Chestnut gave Griffiths a list of the committees to receive the contributions and the two discussed the sum to be given by each contributor. Griffiths contacted various persons to inquire if they were willing to contribute to Humphrey and indicated to them that they would be reimbursed. Several persons expressed a disinclination to contribute. Griffiths accumulated fourteen checks for \$3,000 each and one check for \$6,000 for a total of \$48,000 from eight individuals.<sup>103</sup> Two thou-

<sup>101</sup> See Fortas letter, 25 *Hearings* 11976.

<sup>102</sup> Loeb's attorneys advised the Committee that Loeb asked Humphrey how much he wanted and Humphrey said \$50,000.

<sup>103</sup> Griffiths checks, 25 *Hearings* 11986.



sand dollars in cash was added by Mr. Loeb to make a grand total of \$50,000.<sup>104</sup> Griffiths arranged for the transfer of funds from Loeb's account to the accounts of the individual donors to reimburse them in full for the checks they had written.

#### D. DELIVERY AND RECEIPT OF CONTRIBUTION—REPORTS TO GAO

Solomonson picked up the contribution from Loeb on May 12 and delivered it to Thatcher in Washington, D.C. Upon opening the package, Thatcher found the checks and the \$2,000 in cash. Thatcher thought it was completely reasonable that Loeb had raised these funds by soliciting other persons. The \$2,000 in cash was given to Joseph Cole to open a new account in California. The checks were given to staff for routine handling.

On May 24, 1972, the Humphrey committees filed a report of receipts and expenditures to the General Accounting Office as a required pre-California primary report. The \$48,000 contributions by check were listed in the report, but not the cash. Curiosity of the news media was aroused because of bank addresses shown for the donors, and GAO initiated inquiries. Loeb spoke with counsel on May 31 and was advised of the provisions of the new law. On June 1, Mr. and Mrs. Loeb wrote to each of the recipient committees to advise them that they were the true donors. The next day, Thatcher filed an amended report with GAO to reflect the Loeb's as the true donors, each in the amount of \$24,000.<sup>105</sup> The \$2,000 contribution of cash was not reported to GAO until June 10, 1972.

#### E. THATCHER'S 1973 CONVERSATION WITH HUMPHREY

Thatcher has stated that sometime in 1973, he met Senator Humphrey on an airplane and told the Senator he was concerned and upset because Loeb's lawyers were advising Loeb to fight the charges when they knew there was a clear case against him. Senator Humphrey was concerned because Loeb was a friend of his and was having difficulty due to a contribution to the Senator. Thatcher does not know whether Senator Humphrey took any action after hearing Thatcher's view that Loeb should plead guilty.

#### F. LOEB'S PROSECUTION

Loeb was prosecuted for violations of the election law which went into effect on April 7, 1972, which makes it a crime to make a contribution in the name of another person.<sup>106</sup> On May 31, 1973, he entered a plea of *nolo contendere* to violations of section 440, title 2, United States Code, and was fined \$1,000 on each of three counts. He stated to the court that he had no knowledge of the enactment of the new law.<sup>107</sup>

<sup>104</sup> In conflict with this, in the FBI Report of an interview with Griffiths on July 18, 1972, it is stated that Griffiths said Loeb gave a "\$2,000 check" drawn on Loeb's account. There is no mention of a cash contribution by Loeb.

<sup>105</sup> See Thatcher letter to GAO, GAO press release, and letter to Attorney General, 25 *Hearings* 11990.

<sup>106</sup> See Information Filed Against Loeb, 25 *Hearings* 11995.

<sup>107</sup> See Memo Against Prosecution, 25 *Hearings* 11997.

## G. STATUS OF THE MATTER

The Federal Election Campaign Act of 1971 made it mandatory for every political committee to report the name of every contributor of more than \$100, and made it unlawful to knowingly receive a contribution made by one person in the name of another.

Loeb's attorneys averred in court that Senator Humphrey suggested Loeb speak with Chestnut "with respect to the mechanics of the contribution," and that when Loeb agreed to give \$50,000 "[n]o one called the existence of [the new law] to Mr. Loeb's attention or raised any question as to the procedure." Chestnut spoke with Loeb; the next day Chestnut called Loeb's secretary to furnish the names of committees which would receive the donations and discussed with the secretary the sums to be given by contributors.

The question may arise whether it would be reasonable for Chestnut to expect Loeb to accumulate the grand total of \$50,000 from so many donors in just 1 day.

When called to testify under oath, Chestnut invoked the fifth amendment, and Senator Humphrey's office has not complied with a committee request for records relating to Loeb.

## Attachment No. 1 to Chapter 6, page 1 of 3 pages

HOWARD H. BAKER, JR., CHIEF OF STAFF  
 HERMAN E. TALMADGE, SA. EDWARD J. GURNEY, PLA.  
 DANIEL R. THORPE, HAWAII LEWIS P. WICKER, JR., CONN.  
 JOSEPH H. MONTGOMERY, N. ME.

SAMUEL DASH  
 CHIEF OF COUNSEL AND STAFF DIRECTOR  
 FRED B. THOMPSON  
 MINORITY COUNSEL  
 RUFUS L. COMBES  
 DEPUTY COUNSEL

## United States Senate

SELECT COMMITTEE ON  
 PRESIDENTIAL CAMPAIGN ACTIVITIES  
 (PURSUANT TO S. RES. 48, 91st CONGRESS)  
 WASHINGTON, D.C. 20510

January 24, 1974

Hon. Hubert H. Humphrey  
 Room 232 Old Senate  
 Washington, D. C.

Dear Senator Humphrey:

As you know the Senate Select Committee on Presidential Campaign Activities is investigating various allegations concerning the employment of corporate funds by Associated Milk Producers, Inc., and others for the benefit of various political candidates in the 1972 presidential campaign and election. In this regard, we are interested in obtaining certain information and materials from you, of course, at your convenience.

While we know that your schedule is extremely tight, the Committee would appreciate it if you would consent to meet with members of our staff. Members of our staff will be in contact with members of your staff in the very near future.

Thank you in advance for your cooperation.

Sincerely,

*Sam J. Ervin, Jr.*

Sam J. Ervin, Jr.  
 Chairman

## Attachment No. 1 to Chapter 6, page 2 of 3 pages

SAM J. ERVIN, JR., M.C., CHAIRMAN  
 HOWARD H. BAKER, JR., T.D.M., VICE CHAIRMAN  
 NORMAN E. TALMADGE, GA. EDWARD J. DURNLEY, FLA.  
 DANIEL K. INOUE, HAWAII LOWELL P. WEICKER, JR., CONN.  
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SAMUEL DASH  
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 MINORITY COUNSEL  
 RUFUS L. EDWINSTON  
 DEPUTY COUNSEL

## United States Senate

SELECT COMMITTEE ON  
 PRESIDENTIAL CAMPAIGN ACTIVITIES  
 (PURSUANT TO S. RES. 14, 93D CONGRESS)

WASHINGTON, D.C. 20510

February 7, 1974

Honorable Hubert H. Humphrey  
 232 Old Senate Office Bldg.  
 Washington, D.C.

Dear Senator Humphrey:

This letter is intended as a follow-up to my letter to you on January 24, 1974, and is designed to provide certain specifics respecting the inquiries the Committee wishes to make of you.

We have discovered evidence indicating that the sum of \$25,000.00 was paid with corporate funds by Associated Milk Producers, Inc., to Valentine, Sherman and Associates, a computer firm, in partial payment of a debt owed to that firm by your presidential campaign. There is evidence indicating that Jack Chestnut, your campaign manager, was aware of and instigated this payment. Mr. Chestnut, however, denies any knowledge of this event.

The Committee has absolutely no evidence indicating that you had contemporaneous knowledge of this payment. Nevertheless, to fulfill our mandate, under S. Res. 60, we feel it necessary for a Committee member to speak with you respecting these circumstances. There are also certain records in your files that the Committee wishes to examine and our staff will promptly contact your staff to specify the records we would like to see.

A member of the Committee will shortly contact you regarding these matters. We would appreciate it if you could find time, at your convenience, in your busy schedule to meet with a Committee member.

Thank you for your cooperation in these regards.

Sincerely,

*Sam J. Ervin, Jr.*  
 Sam J. Ervin, Jr.  
 Chairman

Attachment No. 1 to Chapter 6, page 3 of 3 pages

MINNLT, TA

**United States Senate**

WASHINGTON, D.C. 20510

February 20, 1974

The Honorable Sam J. Ervin, Jr.  
Chairman  
Select Committee on Presidential  
Campaign Activities  
United States Senate  
Washington, D. C. 20510

SAM J. ERVIN, JR.  
RECEIVED  
FEB 25 1974  
REGULATORY  
WASHINGTON, D.C. 20510

Dear Mr. Chairman:

Your letter of February 7 as a follow-up to your letter of January 24 has been received. It indicates that the Select Committee has discovered evidence of a payment of \$25,000 with corporate funds by Associated Milk Producers, Inc., to Valentine, Sherman and Associates, a computer firm, in part-payment of a debt owed to that firm by a volunteer committee supporting my bid for the 1972 presidential nomination.

Let me say that neither at the time of the alleged transaction nor now do I have any knowledge concerning this particular matter. In fact, it wasn't until just recently that I even heard there was any contention that funds of Associated Milk Producers, Inc., were paid to the Computer firm and somehow credited to the receivables that the firm had coming from the volunteer committee supporting my candidacy.

Because I know nothing about the transaction and have no records in my files relating to it, I see no point in inconveniencing any member of your Committee to meet with me.

Best wishes.

Sincerely,

*Robert H. Humphrey*  
Robert H. Humphrey



## CHAPTER 7

### The 1972 Presidential Campaign of Congressman Wilbur D. Mills—Financial Elements

#### PREFACE

Congressman Wilbur D. Mills formally became a candidate for the Presidency on February 11, 1972. Efforts on his behalf had begun in early 1971. A committee entitled Draft Mills for President was constituted in the summer of 1971 by Mr. Charles Ward, an Arkansas businessman. Ward had conceived the idea of a draft, spoke with Mills about it in June of 1971 to insure he had no objection, and in July opened a campaign office in Washington, D.C. To permit contributions of larger amounts to be subdivided, Ward also served as chairman for committees named "Good Government" and "Sound Economic Growth."<sup>1</sup> He served the draft campaign actively until February of 1972, at which time the official structure of the Mills campaign was created.

According to Ward, Draft Mills had receipts of about \$200,000 from July of 1971 to February of 1972. About 75 persons gave \$1,000 or more; only a few donated more than \$3,000. The General Accounting Office records show that post-April 7, 1972 receipts were about \$293,000.

This report reviews Congressman Mills' support of legislation favorable to dairy producers, and dairy trust contributions to his campaign. It also reviews monetary contributions and other benefits of substantial value to the Mills campaign from corporate assets of Associated Milk Producers, Inc., Mid-America Dairymen, Inc., Gulf Oil Corp., and Minnesota Mining and Manufacturing Co.

The Select Committee made an effort to schedule an interview with Congressman Mills. Letters were sent to him by Chairman Ervin on January 24, and on February 7, 1974.<sup>2</sup>

Senator Ervin stated, "... we feel it necessary to speak to you ..." and "We hope that you, at your convenience, can find time in your busy schedule to meet with a member of the committee."<sup>3</sup> No written reply was received, but on March 18, 1974, the attorney for Congressman Mills orally advised committee counsel that Congressman Mills would meet with a committee Senator immediately after House action on certain legislation. Congressman Mills' counsel said Senator Ervin would be notified of this by letter; however, no such communication

<sup>1</sup> From December of 1971 to March of 1972, at least 25 Mills campaign committees were constituted apparently for the receipt of contributions to be subdivided in view of the gift tax laws. See Mills Campaign Committees, 25 *Hearings* 12033.

<sup>2</sup> See Attachment 1, p. 928.

<sup>3</sup> *Ibid.*

has been received. On a television appearance (NPACT) on April 1, 1974, Congressman Mills stated he was "unaware of what was going on in the so-called Draft Mills."<sup>4</sup>

In April of 1972, Mr. Joseph Johnson became chairman of Mills for President.<sup>5</sup> This became the principal campaign committee. During February and March of 1972, Johnson did campaign work while on the Congressional payroll of Congressman Mills; and for the preceding 6 months, Johnson had worked in the Draft Mills project while salaried by Associated Milk Producers, Inc. (AMPI). When called to testify under oath on April 2, 1974, Johnson invoked the Fifth Amendment privilege as one reason for refusing to answer any questions concerning the 1972 Presidential campaign of Mills. Senator Talmadge, who chaired the committee session, sustained Johnson's refusal to testify on the basis of his privilege against self-incrimination.

Prior to April 7, 1972, the Federal law was ambiguous concerning the necessity for Presidential candidates to file reports of receipts and disbursements during the primary election period. Nevertheless, many candidates made voluntary disclosures of the identities of their contributors. Congressman Mills made no voluntary disclosure for the period preceding April 7, 1972.<sup>6</sup> Thus, very little is publicly known concerning the identities of Mills supporters before April 7.

The Federal Corrupt Practices Act of 1925 made it unlawful for any corporation to make a contribution or expenditure in connection with any election to any political office, or for any candidate, political committee, or other person to receive any such contribution (Title 18, Section 610). In addition to this prohibition, it is unlawful to purchase articles of any description, the proceeds of which inure to the benefit of a political candidate or committee (Title 18, Section 608b).

Because of staffing and time limitations, the investigation of the Mills campaign was not exhaustive.

## I. CONTRIBUTIONS FROM ASSOCIATED MILK PRODUCERS, INC.

### A. INTRODUCTION

A corporation which gave a large measure of support to Congressman Mills' Presidential campaign in 1971 and 1972 was Associated Milk Producers, Inc. (AMPI). It consists of approximately 40,000 dairy producer members in the southwestern, central, and upper mid-western States. Its headquarters are located in San Antonio, Tex. Because Federal statutes have forbidden the use of corporate assets for political contributions, in 1969 AMPI established a trust to collect moneys from participant-donors, almost entirely dairy farmer members and AMPI employees, and to make political contributions. This trust was named the Trust for Agricultural Political Education (TAPE). In 1972, it was succeeded by CTAPE.<sup>7</sup> In addition to con-

<sup>4</sup> See Mills television appearance transcript, 25 *Hearings* 12070.

<sup>5</sup> During an unsworn staff interview, Johnson said he became chairman as of April 7, 1972. A "Mills for President" report to GAO indicates that Johnson became chairman in May of 1972. See "Mills for President" GAO Report, 25 *Hearings* 12072.

<sup>6</sup> See "Political Contributors of \$500 or more Voluntarily Disclosed by 1972 Presidential Candidates," published by Citizens' Research Foundation, Princeton, N.J.

<sup>7</sup> A more complete description of AMPI and TAPE, as well as of other dairy producers' co-ops, may be found at the beginning of Chapter 5 of the Select Committee report on the milk fund.



tributions of \$55,600 from TAPE and CTAPE (and two other dairy trusts), there is evidence that Congressman Mills' Presidential campaign received the benefit of up to \$75,000 from corporate assets of AMPI, \$15,000 from corporate assets of another dairy cooperative Mid-America Dairymen, Inc., and \$40,000 in donations from members, employees, and officers of AMPI, for a grand total of about \$185,000 from dairy producer sources. This is the equivalent of 38% of his campaign revenues.<sup>8</sup>

The benefit which the Mills campaign received from AMPI corporate assets came in the form of cash, checks, goods, and services. This section of the report sets forth the supporting details.

AMPI records, some of which might have been relevant to topics of this report, were destroyed in March/April of 1971. According to Tom Townsend, an AMPI official, after a private antitrust suit had been filed against AMPI, he was instructed by David Parr, assistant to the AMPI General Manager, to destroy records in the Little Rock, Ark. office of AMPI relating, among other things, to political activities or contributions.

## B. CONTRIBUTIONS BY POLITICAL ACTION COMMITTEES—MILLS' SUPPORT OF LEGISLATION FAVORABLE TO DAIRY PRODUCERS

### 1. SUMMARY

The Mills Presidential campaign received \$55,600 from the trust funds of TAPE, CTAPE, ADEPT, and SPACE.<sup>9</sup> Of this total, TAPE and CTAPE (the adjuncts of Associated Milk Producers, Inc.) gave \$26,500. While Congressman Mills did not sponsor any milk price support legislation in March of 1971, he was of assistance to AMPI and its organized effort to pressure the Nixon administration to grant an increase in the level of support for the price of milk, he had numerous meetings with dairy producers and their lobbyists, arranged a dairymen's meeting with the Speaker of the House, suggested Congressmen to be contacted as cosponsors of legislation, and urged key officials of the Nixon administration to take action.

### 2. BACKGROUND

The milk marketing year begins on April 1. Each year before April 1, the Secretary of Agriculture has a statutory obligation to fix the level at which the Government will maintain the price of milk. On March 12, 1971, the Secretary announced a price support level of \$4.66 per hundredweight (about 80% of parity). The dairy producers had been lobbying in the Congress and in the Department of Agriculture in order to obtain a support level of at least 85% of parity. When the March 12 decision became known, the dairy producers marshalled their efforts in an attempt to obtain a statutory increase. They focused

<sup>8</sup> See Higgins letter, 25 *Hearings* 12075. The Chairman of Draft Mills estimated pre-April, 1972 receipts at \$200,000. By letter of June 26, 1974, GAO advised that post-April 7, 1972 receipts of Mills for President were \$266,408 (rather than \$371,719 as published in the GAO year-end summary). Other Mills committee receipts after April 7, 1972 were \$26,787. Thus total receipts approximated \$493,000.

<sup>9</sup> ADEPT, Agricultural and Dairy Educational Political Trust, is the trust fund of Mid-America Dairymen, Inc. of Springfield, Mo. SPACE, Trust for Special Political Agricultural Community Education, is the trust fund of Dairymen, Inc. of Louisville, Ky.

their attention on Capitol Hill, urging Congressmen and Senators to sponsor favorable legislation for a two-fold purpose. They conceived that a well-spring of legislative support could persuade the administration to reverse its position, or failing that, such legislation might eventually be enacted.

On March 25, 1971, the Secretary of Agriculture announced an increase in the level of support to \$4.93 per hundredweight (about 85% of parity).

This committee has investigated the relationship between milk producer contribution to the President's campaign and the milk price support increase announced on March 25, 1971. The question at issue is whether or not the increase was granted in return for or in anticipation of the contributions. A White Paper issued by the White House on January 8, 1974, argued that intense Congressional pressure, in addition to the economic merits and political considerations, was a factor in the President's decision.

### 3. SUPPORT FROM MILLS

The dairymen looked upon Congressman Mills as a foundation stone in their project in Congress. He had been a consistent supporter of legislation beneficial to farm and dairy groups. Bob Lilly, assistant to the AMPI general manager, testified that Mills was a significant and important person to have on their side in getting a price support increase. Mills declared his position and suggested other Congressmen who should be contacted to become cosponsors of legislation. Lilly said they were successful in inducing a number of Congressmen to urge the executive branch to declare an increase.

Dr. George Mehren (who became AMPI general manager in 1972 and who previously was an AMPI consultant) testified that AMPI worked with Mills for the dissemination of data to other Congressmen and to assess the chances of enactment of favorable legislation. Mehren's calendar shows he met with Mills on March 16, 1971. Mehren testified as follows:

SANDERS. With respect to the March 1971 price support decision, could you elaborate for me on your work in generating support on Capitol Hill?

MEHREN. It was a very limited activity . . . I would say that I talked maybe to five or six people . . . I think I talked with Wilbur Mills repeatedly . . . I talked with Senator Humphrey on occasion. . . .<sup>10</sup>

In February, 1971, officials of the Department of Agriculture and White House liaison were called to Speaker Albert's office to meet with the Speaker, Congressman Mills and dairy producers. Mehren said this was initiated by Mills. The purpose was to communicate to the Secretary of Agriculture and to congressional liaison of the Republican administration the importance of the requested price adjustment.

Tom Townsend, an AMPI employee working under the supervision of David Parr, an AMPI official, said he (Townsend) personally contacted Congressmen to urge action on a price increase, and he had

<sup>10</sup> Mehren, 16 *Hearings* 7317.

conversations on the matter with Congressman Mills. Townsend was present at the Albert-Mills meeting. Of it, he said: "Chairman Mills and the Speaker got together and asked somebody from the White House, a liaison man, to come up at a meeting in Speaker Albert's office."

SANDERS. What, if anything, did Chairman Mills and Speaker Albert represent to AMPI that they were personally willing to do for the dairymen?

TOWNSEND. Well, I think, lend support to the bills that were being introduced . . . he (Mills) would try to be helpful in terms of advising the administration and other Members of Congress to generate support.<sup>11</sup>

The question was put to Mr. Harold Nelson, AMPI general manager until January, 1972, "Now you mentioned . . . contact with various Congressional leaders . . . was also part of the strategy in early 1971 to obtain a milk price-support increase . . . With whom did you meet?" Nelson testified, "I met with Wilbur Mills and—as I recall—and this can be wrong—I may have met with Chairman Poage. . . ."<sup>12</sup>

Congressman Mills' attorney advised committee counsel that Congressman Mills has had frequent meetings with David Parr of AMPI. Congressman Mills was asked to furnish logs and calendars for the February–March, 1971 period. His attorney stated that such documents have not been maintained. In his April 1, 1974 television appearance (NPACT), Congressman Mills was asked by the moderator about the willingness of the milk industry to contribute so substantially to his Presidential campaign. He responded, "I did talk to (George) Shultz generally about it (price increase). I met in the Speaker's office one time with Clark MacGregor when he was in the White House. But the Speaker and I didn't do the talking. The people that we had asked Clark to come to hear did the talking. Namely, the dairy farmers themselves. . . ."<sup>13</sup> Congressman Mills' attorney also advised that Mills had one conversation with Connally about the milk increase, the purpose of which was to make sure the President was aware of the facts.

In testimony given to the Select Committee, John Connally said he had a number of conversations with Mills between March 12 and March 25, 1971, about milk legislation: "I do know that Chairman Mills talked to me about it several times. . . ."<sup>14</sup>

According to the White House white paper,<sup>15</sup> the records of Clark MacGregor, Presidential counsel, show that Congressman Mills urged him on at least six occasions in February and March of 1971 to urge the President to raise the support price. MacGregor has described the contacts to the Select Committee staff as "vigorous lobbying." Congressman Mills telephoned George Shultz, then Director of the Office of Management and Budget, on March 4, 1971, "to push for a prompt decision."<sup>16</sup> Mr. Shultz' telephone log also shows he was called by Chairman Mills on March 8.

<sup>11</sup> Townsend, 16 *Hearings* 7120.

<sup>12</sup> Nelson, 15 *Hearings* 6555.

<sup>13</sup> See Mills Television Appearance Transcript, 25 *Hearings* 12070.

<sup>14</sup> Connally, 14 *Hearings* 6088.

<sup>15</sup> See White Paper, 17 *Hearings* 8078.

<sup>16</sup> See Shultz memo, 17 *Hearings* 8128.

## 4. DAIRY TRUST CONTRIBUTIONS TO MILLS

There is evidence that the Mills Presidential campaign received up to \$75,000 in money, goods, and services from AMPI corporate assets, in addition to \$55,600 received from the dairy trust established to make legal political contributions. Those sections of the report which follow will provide details concerning contributions to Mills' campaign from corporate assets of AMPI (as well as other corporations).

Mills received \$1,500 from TAPE in 1971 and \$25,000 from CTAPE on June 13, 1972. ADEPT gave the Mills campaign a total of \$16,600 in June, July, and August 1972, and SPACE gave a total of \$12,500 in May, June, and August of 1972.

Dr. Mehren was asked if the backing of Mills for the 1971 milk price support was a factor in deciding upon subsequent contributions to him. He said: "I think, in complete honesty, it would be a factor or an incident in a long history of understanding, awareness, accessibility and support."<sup>17</sup> Concerning the CTAPE donation of \$25,000 to the Mills campaign, Mehren testified: "Mr. Mills knew I gave it to him, and he thanked me for it. . . ." <sup>18</sup>

## 5. COMPLETION OF INVESTIGATION

This limited investigation has not uncovered any direct evidence that Congressman Mills' support of the March, 1971 dairy legislation constituted a specific *quid pro quo* for the money, goods and services given to him. The failure of Congressman Mills to make himself available for committee interview, his campaign manager's invocation of the fifth amendment when called to testify under oath, and the destruction of records by AMPI have prevented a full development of the facts.

## C. CASH FROM CORPORATE ASSETS OF ASSOCIATED MILK PRODUCERS, INC.

## 1. SUMMARY

In August of 1971, on the instruction of Harold Nelson, general manager of AMPI, Bob Lilly, an assistant to Nelson, delivered \$5,000 cash to David Parr, also of AMPI. There is evidence that Parr sent the money to Washington where it was delivered to Mr. Oscar E. (Gene) Goss, administrative assistant to Congressman Wilbur Mills. Lilly acquired the cash by borrowing from a bank and then repaying the loan with funds received from AMPI attorneys who obtained reimbursement by billing AMPI for services not rendered.

In November of 1971, Jake Jacobsen, AMPI attorney, gave \$5,000 cash to Parr for Congressman Mills. Parr had asked Jacobsen for this money, saying it was needed for Mills' Presidential campaign. Jacobsen obtained the cash by a withdrawal from his law firm account. Jacobsen is one of the attorneys who, according to Lilly, obtained reimbursement from AMPI for moneys he made available for political

<sup>17</sup> Mehren, 16 Hearings 7323.

<sup>18</sup> Mehren, 16 Hearings 7325.

contributions. Jacobsen denies this. Parr cannot recall the disposition of the \$5,000 received from Jacobsen.

## 2. \$5,000 IN AUGUST 1971

On August 17, 1971, Harold Nelson, AMPI general manager, instructed Bob Lilly, his assistant, to deliver \$5,000 cash to David Parr, also of AMPI, for Wilbur Mills. On the same day Lilly obtained the money by borrowing \$10,000 at the Citizens' National Bank of Austin, Texas. According to Lilly, Nelson told Lilly he could repay the loan by aggregating funds from AMPI attorneys on retainer, "[a]nd the attorney in turn would bill AMPI double out of what would have been contributed and be paid in that manner."<sup>19</sup>

Nelson testified that he has no recollection of telling Lilly in August of 1971 to give \$5,000 to Parr for Mills, but stated "... if Lilly said that I did it, I am perfectly willing to accept the fact that I did. . . ." <sup>20</sup> Parr testified that he asked Nelson to send \$5,000 to Little Rock for a Mills appreciation dinner in August of 1971. Parr denied that he received any request for this money from anyone working for Mills. Lilly delivered the cash to Parr's secretary, Norma Kirk, at the Little Rock Airport on August 17, 1971, and Kirk returned it to Parr's office where it was placed in a walk-in vault. Parr testified that at his direction, one of his employees, Tom Townsend, took the \$5,000 to Washington, D.C. to be given to Gene Goss, administrative assistant to Wilbur Mills. Parr said that TAPE funds were not used because publicity was not desired.<sup>21</sup>

Townsend testified that in possibly August of 1971, on Parr's instruction, he carried a sealed envelope from Little Rock to Washington, D.C. where he delivered it to Goss in Mills' congressional office. Parr told Townsend that the envelope contained cash and checks, somewhat less than \$5,000.

Townsend recalled what Parr had said to him: "I've got some contributions that I would like to have you take up to Washington . . . Now be careful, because some of it is cash . . . some cash and some checks, and it's less than \$5,000. . . ." <sup>22</sup> Townsend told Goss the envelope was from Parr.

Goss has no recollection of receiving this cash. He does remember receiving checks, not more than 100 in all, which Parr sent to the campaign. These checks were written by dairy farmers and other persons associated with AMPI, and will be explained more fully in Section F.

Lilly held one-half of the \$10,000 loan in reserve, and used it to repay the loan along with funds obtained from Stuart Russell, an

<sup>19</sup> Lilly, 14 *Hearings* 6166.

<sup>20</sup> Nelson, 15 *Hearings* 6612.

<sup>21</sup> Parr's testimony was as follows with respect to the \$5,000 cash he received from Lilly:

PARR. . . . that was brought to Washington by Mr. Townsend.

SANDERS. That would have been under your supervision and direction?

PARR. Yes, sir.

SANDERS. And you would have had to tell him who to give it to?

PARR. Yes.

SANDERS. Who would that be?

PARR. I believe it was given to Mr. Goss.

SANDERS. Who is the AA to Mills. Why did Lilly give \$5,000 to Norma Kirk?

PARR. Mr. Nelson and I had discussed the idea of making a contribution to the Mills appreciation rally.

See Parr, 15 *Hearings* 6831.

<sup>22</sup> Townsend, 16 *Hearings* 7089.

AMPI attorney. Lilly testified that Russell was the only one he contacted for this purpose. In 1971, Russell disbursed \$39,500 to Lilly, for which he obtained reimbursements by billing AMPI \$62,950.<sup>23</sup> A Russell check for \$4,000 on October 5, 1971 was payable to cash, the proceeds of which were used by Lilly in paying the \$10,000 loan in full on October 8, 1971.

### 3. \$5,000 IN NOVEMBER 1971

On November 10, 1971, Lilly went to Austin, Tex., to see Jacobsen.<sup>24</sup> At the Austin Airport he unintentionally met Jacobsen, Parr, and Townsend. It appeared they were there for reasons other than to meet Lilly. Lilly observed an envelope being handed to Jacobsen by Joe Long, Jacobsen's law partner. Lilly heard Long say, "here is the \$5,000 for Wilbur that you wanted. . . ." <sup>25</sup> Jacobsen, Lilly said, handed the envelope to Parr with a similar remark: "[H]ere's the \$5,000 for Mr. Mills," <sup>26</sup> and Lilly observed Parr put the envelope in Parr's pocket.

Jacobsen testified that Parr telephoned him to say, ". . . Mr. Mills needs \$5,000 in his Presidential campaign." <sup>27</sup> At a different point, Jacobsen testified, "He (Parr) asked for it" and "He wanted it for Mr. Mills." <sup>28</sup> Jacobsen withdrew \$5,000 from his law firm account. He testified, ". . . I delivered \$5,000 to David Parr for Wilbur Mills" <sup>29</sup> in the Austin Airport.

Jacobsen was unable to say whether his check for \$2,750 on November 10, 1971, drawn on the firm of Jacobsen and Long, and the check for \$2,250 written by Long on November 10, 1971, also drawn on the Jacobsen and Long account, were specifically the source of the \$5,000 cash which he gave to Parr on the same date.<sup>30</sup> He averred that he did not bill AMPI for reimbursement.

Lilly has testified that other moneys he received from Jacobsen for political uses were recouped by Jacobsen from AMPI, and the committee's Milk Fund Report presents independent evidence corroborating Lilly's account. For the 12-month period ending June 30, 1972, the Jacobsen law firms in Austin, Tex., and Washington, D.C. received fees from AMPI totalling \$80,000.

Parr had great difficulty in remembering the circumstances of this transaction. He said it was confused in his mind with the \$5,000 which Lilly delivered to Little Rock in August of 1971, but he said he thinks he did ask Nelson about this money. He recalls receiving \$5,000 from Jacobsen in the Austin Airport; he recalls that it was for a political contribution; but he cannot remember if it was for Mills. He acknowledged that the \$5,000 was in the form of cash, but he does not know the source of it.

Nelson testified that he has no recollection of authorizing any payments to Mills.

<sup>23</sup> Hart Affidavit, 17 *Hearings* 7922.

<sup>24</sup> See Chapter 5, Milk Fund, Section V.A.2.

<sup>25</sup> Lilly, 14 *Hearings* 6168.

<sup>26</sup> Lilly, 14 *Hearings* 6172.

<sup>27</sup> Jacobsen, 15 *Hearings* 6434.

<sup>28</sup> Jacobsen, 15 *Hearings* 6431.

<sup>29</sup> Jacobsen, 15 *Hearings* 6430.

<sup>30</sup> Jacobsen exhibits 21 and 22, 15 *Hearings* 6496. See Chapter 5, Milk Fund, Section II.D.3b, for other transactions involving the Jacobsen and Long accounts.

D. SERVICES RENDERED BY EMPLOYEES OF ASSOCIATED MILK  
PRODUCERS, INC.

1. SUMMARY

In August 1971, an appreciation dinner was held for Mills in Little Rock. Some AMPI employees provided services for this function. Between July 1971, and the end of January 1972, three employees of AMPI worked at various times on the Mills Presidential campaign. Two of them applied major portions of their time to the Mills campaign for several months while on the AMPI payroll; one working as an advance man traveling for and with Mills, and the other doing office work. Expenses of these employees, including apartment and furniture rental in Washington, D.C., were paid by AMPI. Salaries and expenses of these employees for the relevant period totaled at least \$25,000. There is evidence that there was a conscious decision on the part of a top official, or officials, of AMPI to assign AMPI employees to work in the Mills Presidential campaign for a period of at least several months, and that Mills' administrative assistant as well as the head of the Draft Mills campaign was at least aware of their participation in the campaign.

2. JOE JOHNSON, TERRY SHEA, BETTY CLEMENT BULLOCK

During Parr's testimony before the committee, he was questioned concerning the assignment of AMPI employees to the Mills campaign:

HAMILTON. . . the first question is whether or not in late 1971 or early 1972 there were several AMPI employees who moved to Washington and worked in the Mills campaign while still on the AMPI payroll?

PARR. Yes.

HAMILTON. And who was that?

PARR. Joe Johnson, Betty Clement, and Terry Shea.

\* \* \* \*

HAMILTON. When did they come to Washington?

PARR. The best I can remember is November.

HAMILTON. And they stayed until after you left AMPI?

PARR. Yes.

HAMILTON. And do you know what their combined monthly salary would have been?

PARR. I suppose around \$2,500.

\* \* \* \*

HAMILTON. Who in AMPI made the decision to let these three people go to Washington?

PARR. Mr. Nelson and myself.

After explaining that the employees reported to Charles Ward, chairman of Draft Mills, Parr continued:

HAMILTON. Do you recall any conversations with anybody on the Mills staff or payroll, Congressional staff, campaign staff?

PARR. I am sure they knew it. We did not try to hide it.

\* \* \* \*

HAMILTON. Can you give me the name of anybody on the Mills staff that knew of this arrangement?

PARR. I am sure that Mr. Goss knew it.

\* \* \* \*

HAMILTON. . . . is it correct . . . that you sent them to Washington without first notifying somebody in the Mills staff to make the arrangements?

PARR. I would not say that. I just did not know the particulars. I am sure that there were some notifications or something that they were there. Mr. Johnson was traveling with Mr. Mills. . . .

Parr was questioned further about the type of work these employees performed for the campaign, and the amount of time devoted to the campaign:

SANDERS. Do you know, in fact, what they did for the at least three months that they were here?

PARR. I believe that Mr. Johnson traveled with Congressman Mills. I believe Ms. Clement worked in the Draft Mills for President Committee. . . . And I believe Mr. Shea was what they called an advance man. . . .

\* \* \* \*

SANDERS. . . . they were working full-time or virtually full-time for the Mills campaign?

PARR. Yes.<sup>31</sup>

The following facts pertain to the services rendered by Betty Clement Bullock to the Mills campaign, and AMPI payment for her services. Congressman Mills and Warren K. Bass, a certified public accountant in Little Rock, established a nonprofit association called Arkansas Voter Registration Association which was succeeded by National Voter Registration Association (NVRA). "AMPI personnel, including Mr. David L. Parr, Mr. Forrest Wisdom, and Mr. Joe P. Johnson, began to discuss a 'project' with Mr. Bass in 1969."<sup>32</sup> AMPI was interested in information concerning the central United States. Arrangements were finalized for NVRA to furnish AMPI with ". . . voter registration information, educate key personnel of AMPI, educate AMPI members, and supply Mr. Parr with any other information he might request. . . . it was agreed that AMPI would pay all of the salary expenses of the Association, which totaled \$1,750 per month. AMPI paid Mr. Bass \$1,000 on May 24, 1971; \$1,000 on July 1, 1971; and \$10,500 on August 17, 1971,"<sup>33</sup> to cover an estimated 6 months for completion of the project.

An AMPI secretary, Betty Clement Bullock, was sent by Parr to work for NVRA in the spring of 1971. For the first few months her salary of \$750 per month was continued to be paid by AMPI. After June 30, 1971, she received her salary of \$750 per month from Bass (another employee of NVRA was paid \$1,000 per month). About the first of July, 1971, however, Bullock was assigned by Parr to work in the Draft Mills campaign. She staffed the Mills headquarters in Little

<sup>31</sup> Parr, 15 *Hearings* 6864.

<sup>32</sup> Report of Wright, Lindsey and Jennings to AMPI, March 13, 1974, p. 116.

<sup>33</sup> *Ibid.*



Rock until the date of a Mills appreciation dinner at the end of August. As explained below, there is evidence that she then began working on preparation for a rally in Ames, Iowa on October 2 featuring Mills. On November 1, 1971, Bullock was sent to Washington, D.C. where she assisted in the Mills campaign until February 1, 1972, at which time she became salaried by Mills congressional office. According to Joe Johnson, beginning in September 1971, Clement spent almost every day at the Draft Mills office.

Gene Goss stated during a staff interview that Bullock came to Washington in mid or late fall, 1971. He said she worked for Johnson and may have had a desk in the Draft Mills office, but he did not know who paid her.

At the time of Johnson's campaign assignment, he held the post of Director of Field Services for AMPI's northern Texas division. Johnson considered Mills to be an old friend of the Johnson family—Congressman Mills had known Johnson's father and offered Johnson an appointment to the West Point Academy in 1947. Johnson's AMPI salary in 1971 was \$25,000 per year.

During a staff interview, Johnson advised that in July 1971, Parr asked him to go to Little Rock to help put together an appreciation dinner for Mills. He spent 10–15 days on this project for which time AMPI paid his expenses. Terry Shea worked on the project also. There was Mills for President advertising in the form of bumper stickers, placards, and balloons.<sup>34</sup> During a staff interview, Johnson acknowledged that from September, 1971 to January 31, 1972, he assisted in the Mills campaign while on the AMPI payroll. He said in September he only spent about 30% of his time on the campaign; however, in this calculation he did not include time spent on the preparation for the October 2 rally in Iowa where Mr. Mills was the principal speaker.<sup>35</sup> From October to January, Johnson estimated his time on the Mills campaign to be 50–70%, although he said he was working 18 hours per day and therefore also spending considerable time on AMPI business. He said Parr must have asked him to see what he could do for Mills in Washington. Johnson stated he did some advance work and handled correspondence. He recalled travel for and with Mills to Chicago, Miami and California. AMPI paid Johnson's expenses. Gene Goss may have been present a couple of times when travel was discussed, but Johnson averred that no one on the Mills staff knew who was paying his bills.

According to the Wright Report, Bullock said that Johnson worked as an advance man for Mills from September 1971 through January 1972. She said he traveled around the country arranging speaking engagements and taking care of incidental details. She said he helped to organize the campaign of Mills for the New Hampshire Presidential primary.

Shea did not contribute much time to the campaign until January, 1972, according to Johnson. But in December 1971, Shea was designated as Secretary for numerous Mills campaign committees established to receive contributions to be subdivided apparently in view of the gift tax laws.<sup>36</sup>

<sup>34</sup> See Section G of this report for means of provision of bumper stickers.

<sup>35</sup> See Section E for an account of the Iowa rally.

<sup>36</sup> See Mills Campaign Committees, 25 *Hearings* 12033.

In order to reduce total expenses, Johnson rented two apartments in Washington in November 1971. The total rent was more than \$600 per month. In addition to the apartment rental, Johnson and Bullock leased furniture at a total cost of about \$175 per month for which they were reimbursed by AMPI. The apartments and furniture rental cost to AMPI was \$6,088.62. (The excess over the actual cost for 3 months of use is attributable to an agreement of settlement with Johnson and Bullock because the apartments had been leased for a 12-month period.) AMPI records reveal that AMPI paid Johnson for additional expenses he billed in November and December 1971, in the total amount of \$2,649.38. Thus, AMPI paid expenses of at least \$8,738 for Johnson and Bullock.

Ward testified that Johnson assisted him on the appreciation dinner for Mills and thereafter gradually spent more time on the campaign—sometimes a few hours a day, sometimes the entire day. Ward was aware that Johnson, Shea, and Bullock were on the AMPI payroll until the end of January 1972. It was evident to him that Goss and Parr were aware that these employees were providing services for the Mills campaign. It was possible, he thought, that he had asked Parr to furnish help and that he had even asked for the services of Johnson for a particular job.<sup>37</sup>

In mid-January 1972, there was a change in the general managership of AMPI. Harold Nelson was succeeded by Dr. George Mehren. Johnson returned to San Antonio at this time to talk with Mehren, telling him, "I am doing something that you should know about."<sup>38</sup> Johnson was advised by Mehren that his work for Mills must cease, or in the alternative, he could take a 6-month leave of absence without pay. Johnson decided to terminate his AMPI employment and this became effective January 31, 1972. Dr. Mehren testified that shortly after he became general manager he was told by Johnson that "... there were two apartments which were being paid for by AMPI with a few people, three or four, I think, although he never stated precisely how many, who were supporting the so-called draft for Mills, who were also on the AMPI payrolls and expenses."<sup>39</sup>

At the time that Johnson returned to San Antonio to talk with Mehren, Johnson told Nelson that his work for Mills began in November 1971, and that it was at Parr's insistence. Nelson also learned that, in addition to the employees' salaries, AMPI was paying for apartment rentals in Washington, D.C. Nelson testified that "... at the time he (Johnson) was doing this he was under Mr. Parr's supervision."<sup>40</sup> In fact, he said that Johnson, Shea and Bullock were sent by Parr to work in the Mills campaign without consulting him. He said that Johnson and his secretary were working substantially full-time for Mills in November and December 1971 and January 1972.

Goss stated during interview that he was aware that Johnson and Shea came to Washington to work in the Mills campaign; however, he did not know who was paying them. Around the first of February 1972, Goss and Johnson went to Arkansas to meet with Mills. Goss

<sup>37</sup> Ward testified that his own expenses of travel for the Mills campaign were charged to Ward Industries of Conway, Arkansas. He averred that the business had distributorships throughout the nation and that on the occasion of his travel for the campaign, he used the opportunity to discuss business with these distributors.

<sup>38</sup> Mehren, 16 *Hearings* 7341.

<sup>39</sup> *Ibid.*

<sup>40</sup> Nelson, 15 *Hearings* 6605.

recommended that Johnson be put on the Mills congressional payroll. Mills was told at this time that Johnson was doing campaign work. For the months of February and March 1972, Johnson was in the employ of Mills on his congressional office payroll; however, he was then terminated because of the advice of the Clerk of the House due to his participation in campaign work outside of Washington, D.C.

### 3. OTHER AMPI EMPLOYEES IN NEW HAMPSHIRE AND ELSEWHERE

Parr testified that still other employee services were provided for Mills during the New Hampshire primary effort.

SANDERS. . . . do you know of any other AMPI financial support for Mills in the 1971-72 Presidential campaign?

\* \* \* \* \*

PARR. We had some people go to New Hampshire.

SANDERS. Did you send them to New Hampshire?

PARR. Yes.

SANDERS. How many?

PARR. I believe a former State senator of Arkansas, Charles George, and his wife. . . .

\* \* \* \* \*

SANDERS. Did you pay for his expenses?

PARR. Yes, sir. . . . This is travel, lodging, what kind of expenses he had.

\* \* \* \* \*

SANDERS. Car rental?

PARR. Yes, sir.

SANDERS. What was he to do in New Hampshire? . . . Did it have relationship to Mills' candidacy?

PARR. Yes; to see what it looked like . . . Mr. Holmes also went up there. . . . He was an employee out of Little Rock . . . had a background in radio and television promotion.<sup>41</sup>

Parr said they were in New Hampshire less than a week. For Johnson's work for Mills in New Hampshire, according to the Wright Report, he was paid by AMPI, for expenses of \$2,850.

The extent of the use of AMPI employees in the Mills campaign is even more evident from remarks of Lilly during an interview conducted by the law firm of Wright, Lindsey and Jennings. Lilly stated, "Tom Townsend spent quite a bit of time on the Mills campaign. Joe Murphey worked for Mills for a week or 10 days at a time. Kieffer Howard and Bob Justice would do the same, I believe."<sup>42</sup>

### E. EXPENSES OF IOWA COOPERATIVE MONTH RALLY

#### 1. SUMMARY

October of 1971 was designated by the Governor of Iowa as Cooperative Month. There is evidence that in September 1971, Congressman Mills called the executive director of the Iowa Institute of Cooperation and asked if the director could provide him with an audience to

<sup>41</sup> Parr, 15 *Hearings* 6870-71.

<sup>42</sup> Wright law firm notes of interview with Lilly on December 27 and 28, 1973.

discuss agricultural problems. The director agreed, and a rally was planned. It appeared that Joe Johnson of AMPI told the director that Johnson would take care of all expenses of the rally, and AMPI did provide funds of about \$30,000 in addition to \$15,000 furnished by Mid-America Dairymen, Inc. Johnson arranged for the director to issue an invitation to Mills in Washington, D.C. and the publicity made it appear that it had been initiated by Iowa Co-op.

AMPI provided the services of a number of employees in preparation for the rally. David Parr, an AMPI official, acknowledged that one purpose of the rally was to give prominence to Mills. While there were other speakers at the rally, Mills gave the principal address. An Iowa statewide effort was made by an Arkansas associate of Parr to urge Iowa local co-ops to distribute Mills for President lapel stickers to be worn at the rally.

## 2. DESIGNATION OF IOWA CO-OP MONTH

The testimony given to the committee by Gerald R. Pepper, executive director of the Iowa Institute of Cooperation, Ames, Iowa, provides a first-hand account of the inception of an October 2, 1971 co-op rally in Ames. For many years the Iowa Institute of Cooperation had obtained a proclamation from the Governor of a Co-Op Month. But until 1971, there had never been a mass rally held during that month to highlight the affair. In early 1971, the Governor of Iowa designated the month of October as Co-Op Month. Up until September, 1971, a rally highlight had not yet been conceived. Pepper testified, "There was never an intent at that point for there to be a program. . . . There was no rally planned. . . ." <sup>43</sup>

## 3. EVIDENCE OF CONGRESSMAN MILLS' CALL TO SOLICIT FORUM

Pepper stated that on Labor Day, 1971, he received a telephone call from Congressman Mills. Pepper testified, ". . . he said, 'Mr. Pepper, we have powerful problems in agriculture . . .,' he said, 'I wonder if you would do me a personal favor . . .,' he said, 'I wonder if you would rent the University of Iowa football stadium and fill it with farm people and give me an opportunity to come out and meet with (them). . . .' he invited me to call him back at his apartment on the following night. . . . And the more I thought about it, the more I thought that, well, this is co-op month. Here is a tremendous opportunity to focus attention on this program." <sup>44</sup> Pepper said he notified Mills of his approval. "He (Mills) . . . indicated that 'someone' would be in touch with me." <sup>45</sup> Pepper told Mills a preferable site would be the Hilton Coliseum in Ames. <sup>46</sup>

## 4. ASSURANCE OF FINANCIAL BACKING

On the day after Labor Day, the date of the rally still not selected, Pepper received a telephone call from Joe Johnson who ". . . indicated that he was to get in touch with me to discuss the co-op rally

<sup>43</sup> Pepper, 17 *Hearings* 7709.

<sup>44</sup> Pepper, 17 *Hearings* 7709-7710.

<sup>45</sup> Pepper, 17 *Hearings* 7710.

<sup>46</sup> According to Parr, Johnson scouted the area and decided upon Ames.

event. And his identification was as a representative of Associated Milk Producers . . . he advised me that I didn't have to worry about money . . . the matter of financial arrangements would be his obligation."<sup>47</sup>

#### 5. CONGRESSMAN MILLS IS FORMALLY INVITED

According to Pepper, later on the same day, Johnson contacted him again to ask if he could be in Washington, D.C. (3 days later) on Friday. Pepper told Johnson that he could not do so because of a co-op board meeting on that date whereupon Johnson offered to transport the entire board to Washington and provide for their meeting on the airplane. Pepper agreed to this and 10 members of the board traveled to Washington on two jet aircraft provided by Johnson. The purpose of the trip was to provide an opportunity to meet Mills. Pepper testified, ". . . en route to Washington, Johnson told me that I would be expected to make an invitation (to Mills)".<sup>48</sup> The board was taken to the House of Representatives' Ways and Means Committee hearing room, where a great number of people were in attendance. According to Pepper, ". . . the meeting appeared to be under the control of David Parr."<sup>49</sup> Parr was the one who made the introductory statements. Mills came in and "Mr. Parr introduced me and I offered him my invitation."<sup>50</sup> After Mills' acceptance, the co-op board conducted a brief meeting in the Ways and Means hearing room.

An Associated Press wire story carried in a Des Moines newspaper on March 25, 1974, said that Congressman Mills said, "through a spokesman that he received an unsolicited invitation" to speak at the Iowa rally. With respect to this news account, Pepper testified, "The remarks of Congressman Mills' spokesman . . . is absolutely incorrect."<sup>51</sup>

#### 6. AMPI EMPLOYEES' SERVICES—PAYMENT OF EXPENSES

Pepper explained the implementation of the program. He testified, "Johnson came to Ames and he brought a large delegation of people who were identified as staff members of Associated Milk Producers."<sup>52</sup> These included Forrest Wisdom, John Holmes, Tom Townsend, Terry Shea, and Betty Clement Bullock, who ". . . appeared to be in charge of the clerical staff in the operation. . . . They installed . . . a number of telephones . . . they were also using the Holiday Inn as kind of a central headquarters."<sup>53</sup> Pepper said the average number of AMPI employees in September was about six, but occasionally ranged as high as 15-20.<sup>54</sup>

The payment of the cost of the rally was explained by Pepper in this way. "He (Johnson) established a bank account in an Ames bank . . . and made whatever deposits he had for the finances of the function."<sup>55</sup> Johnson had the power to draw on the bank account,

<sup>47</sup> Pepper, 17 *Hearings* 7711.

<sup>48</sup> Pepper, 17 *Hearings* 7712.

<sup>49</sup> Pepper, 17 *Hearings* 7713.

<sup>50</sup> *Ibid.*

<sup>51</sup> Pepper, 17 *Hearings* 7714.

<sup>52</sup> *Ibid.*

<sup>53</sup> Pepper, 17 *Hearings* 7714-15.

<sup>54</sup> Tom Townsend's calendars show that he was in Iowa on September 13-16, September 22-23, and September 28-30, 1971.

<sup>55</sup> Pepper, 17 *Hearings* 7714.

but Iowa co-op officials did not. Pepper turned over to Johnson a \$15,000 check he had received from Mid-America Dairymen. The co-op never made any deposits to the account. As Pepper received bills he turned them over to Johnson for payment. Payment of bills by the co-op with other resources was minimal, and Pepper did not think that any member associates of the co-op assisted with any expenses of the rally.

The Wright report relates that AMPI issued two checks to the Iowa Cooperative Month, one dated September 22, 1971 for \$5,000, endorsed "Iowa Cooperative Month—Joe Johnson") and one dated October 21, 1971, in the amount of \$18,000 (endorsed "Iowa Cooperative Month"). According to the Wright report, Pepper was requested to review bank statements and checks in his possession pertaining to the Johnson account and Pepper said they reflected \$38,319 deposited to the account. After payment of all expenses, a balance of \$1,000 was transferred to the Iowa cooperative account. Additionally, AMPI directly paid expenses of \$6,132, which included \$3,751 for buses chartered to transport farmers to and from the rally.

Pepper said he traveled around the State by aircraft, the expenses for which he judged were paid by Johnson from sources other than Johnson's bank account. When Pepper was in need of air transportation, he notified Johnson who "... would identify the aircraft for me and tell me where it would be at the Ames airport. . . ." <sup>56</sup>

Parr acknowledged that expenses were to be paid by dairy and local farm co-ops. He said numerous employees of AMPI helped to turn out a large crowd.<sup>57</sup> Parr thought the total cost was \$50,000-\$60,000, but he did not know what part was paid by AMPI.

It is difficult to calculate the total amount which was spent on the Iowa rally by AMPI. Together, Mid-America Dairymen, Inc. and AMPI made direct payments from corporate assets totaling \$44,132. In addition, AMPI bore the expense of salaries for perhaps an average of six employees for much of the month of September, and apparently paid for the expenses of two jet aircraft traveling from Iowa to Washington, D.C. and returning, and the expense of Pepper's air travel throughout the State of Iowa. The salary expense might be approximated conservatively at \$5,000. The air transportation would surely exceed \$1,000. Thus, AMPI (and Mid-America) apparently paid in excess of \$50,000 for the rally.

#### 7. PROMOTION OF CONGRESSMAN MILLS AS A PURPOSE

The question to be resolved is whether the Iowa rally was contrived by Congressman Mills or his supporters as an event to advance his Presidential candidacy.

Parr furnished testimony that the rally had several agricultural purposes. He was then asked if it would be fair to say that an additional purpose was to give more prominence to Mills.<sup>58</sup> He replied, "Yes, sir. I would have to say that."<sup>59</sup>

<sup>56</sup> Pepper, 17 *Hearings* 7717.

<sup>57</sup> Pepper estimated the rally was attended by 7,000-8,000 persons.

<sup>58</sup> While there were other speakers at the rally, including elected officials, Mills gave the principal address.

<sup>59</sup> Parr, 15 *Hearings* 6867.

SANDERS. Did Congressman Mills receive any prominent notice in the advertisements?

PARR. Yes.

\* \* \* \*

SANDERS. Were you touting him for the Presidency?

PARR. Yes; I would have to say I was.<sup>60</sup>

Pepper was asked whether he discerned any effort to use the rally as a forum for the Mills Presidential candidacy. In response, he told about a letter of September 14, 1971, from Harry L. Oswald, general manager, Arkansas Electric Cooperatives,<sup>61</sup> to rural electric co-op managers throughout Iowa.<sup>62</sup> Pepper described the letter as an effort to get the managers to distribute Mills for President lapel badges to their members for use at the rally. Pepper said, Oswald "was soliciting support for the Congressman to be an active Presidential candidate." To offset the effort of Oswald to make a partisan affair of the rally, Pepper sent a memorandum to the rural electric co-op managers asking them to disregard any attempt to divert his effort to make the meeting bipartisan.<sup>63</sup> When questioned concerning the appearance of the rally itself, Pepper testified:

MUSE. Was there any effort to solicit any funds by Congressman Mills at the rally?

PEPPER. No.

MUSE. And again, his speech and his actions didn't demonstrate, or didn't seek to generate a candidacy, did [they]?

PEPPER. As a matter of fact, I thought it was pretty dry.<sup>64</sup>

However, Pepper also acknowledged the accuracy of a quote attributed to him, appearing in the March 25, 1974 Des Moines Tribune as follows: "Mills appeared to be testing the water for a possible Presidential run."

Nelson testified that there was no doubt but that Parr was an early supporter of the idea of Mills for President. Files of the Wright, Lindsey, and Jennings law firm show that during an interview with Lilly, he stated: "Dave Parr wanted to build a kitty for Wilbur Mills of \$2,000,000."<sup>65</sup> He said the rally was Parr's idea, but he did not think it was arranged solely for Mills' benefit. According to Lilly, "... Joe Johnson had a considerable part of the work in putting that (rally) together."<sup>66</sup> Johnson advised the committee staff that he was the AMPI coordinator for the event, that he spent a couple of weeks working on it in September and that he made progress reports to Parr. He recalled the use of bumper stickers advertising Mills for President.<sup>67</sup>

Townsend testified: "I was in Iowa to help wherever I could to try to get a crowd for the Iowa cooperative."<sup>68</sup> He said his function was "... to get people together and see if we couldn't develop some

<sup>60</sup> Parr, 15 *Hearings* 6867-68.

<sup>61</sup> See Wright report, pages 154-155, for circumstances of relationships of Oswald and Parr in an earlier and unrelated corporate campaign contribution.

<sup>62</sup> See Pepper exhibit 2, 17 *Hearings* 7727.

<sup>63</sup> See Pepper exhibit 3, 17 *Hearings* 7729.

<sup>64</sup> Pepper, 17 *Hearings* 7724-25.

<sup>65</sup> Wright law firm notes of interview with Lilly on December 27 and 28, 1973.

<sup>66</sup> Lilly, 14 *Hearings* 6170.

<sup>67</sup> See Section G, concerning the procurement of bumper stickers.

<sup>68</sup> Townsend, 16 *Hearings* 7104.

more cooperation. And then I think, too, I knew that Chairman Mills was going to be one of the speakers at that meeting, and anything I could do to help Chairman Mills I would be happy to do.”<sup>69</sup>

HAMILTON. Was that the official position of AMPI, “Let’s help Chairman Mills”?

TOWNSEND. . . . I think that may be an unofficial position . . . he was helpful to us in terms of the dairy industry, and, at least I felt that any time there was anything we could do that would be helpful to Chairman Mills, that it would be done.

\* \* \* \* \*

HAMILTON. But you perceived it (the Iowa rally) as a vehicle to promote Mills’ candidacy? Is that correct, or is it not correct?

TOWNSEND. Yeah, I guess I perceived it as—

HAMILTON. Do you think Mr. Parr perceived it as that way?

TOWNSEND. . . . I would think that he would have perceived it as an opportunity to help Chairman Mills; yes.

HAMILTON. How about Mr. Nelson?

TOWNSEND. I would say the same with Mr. Nelson.<sup>70</sup>

Early in 1974, some adverse publicity arose concerning the genesis of the Iowa rally. The Governor of Iowa expressed the opinion that the co-ops had been used. On March 26, 1974, Pepper sent a letter to Governor Robert Ray<sup>71</sup> voicing agreement with the Governor’s opinion. Pepper’s letter went on to say, “. . . I may have made an error in judgment by falling prey to someone’s carefully planned strategy . . . a carefully staged meeting in Washington was held in which I ‘officially’ issued an invitation. . . . I believe, now, that I’d been ‘had’—had by experts in political games. . . .”<sup>72</sup>

The detailed information provided by Pepper concerning the background of the invitation extended to Mr. Mills including his reported telephone call to Pepper was not known at the time of the staff interview of Johnson. A full development of the circumstances has been precluded because of Johnson’s invocation of the fifth amendment when subsequently called to testify under oath, and by the failure of Mr. Mills to accede to the committee’s request for interview.

## F. SOLICITATION OF DONATIONS FROM AMPI EMPLOYEES

### 1. SUMMARY

In late 1971 or early 1972, David Parr, an official of AMPI, raised about \$40,000 for Mills’ campaign by solicitations made to employees, officials, and directors of AMPI. This money was sent to Mills’ administrative assistant. Some employees were asked to sign an authorization for a deduction from their paycheck as a contribution to Mills; however, this check-off system was discontinued before it was implemented.

<sup>69</sup> Townsend, 16 *Hearings* 7104.

<sup>70</sup> Townsend, 16 *Hearings* 7105.

<sup>71</sup> See Pepper exhibit 1, 17 *Hearings* 7726.

<sup>72</sup> *Ibid.*



## 2. AGGREGATION OF EMPLOYEES' CHECKS FOR MILLS

In late 1971 Parr asked employees, officials, and directors of AMPI to contribute to Mills' campaign. He aggregated about \$40,000 in checks which he periodically sent to Gene Goss, Mills' administrative assistant, as received. Parr averred that no pressure was used and no ultimate goals, or levels of giving, were established. He denied that any of these contributors recovered their donations by submitting fictitious vouchers to AMPI. Parr claimed that Nelson approved this program. Parr answered specific questions as follows:

SANDERS. Did you solicit contributions from AMPI employees for Mills...?

PARR. Yes, sir. . . . I believe the figure raised was about \$40,000. . . .

\* \* \* \* \*

SANDERS. Over what period of time?

\* \* \* \* \*

PARR. . . . in the fall.

\* \* \* \* \*

SANDERS. Of 1971?

PARR. Yes, sir.

\* \* \* \* \*

It was sent to me and I sent it to Washington. . . . I believe to Gene Goss.

\* \* \* \* \*

SANDERS. Did you contact all of them personally, or did someone else do it for you?

PARR. Everybody was working on it. I mean, all of the employees were working on it.<sup>73</sup>

\* \* \* \* \*

HAMILTON. Was there any arm-twisting?

PARR. I have heard there was, since it's all over with. But I had not heard at the time that there was. . . . I heard that people were told they had to do it.<sup>74</sup>

Charles Ward, chairman of Draft Mills, said Parr periodically would deliver to the campaign an aggregation of \$4,000 to \$5,000 in checks. Townsend recalled delivering to Gene Goss a large envelope given to him by Parr. He was told that it contained checks. Gene Goss stated during an interview that in late 1971 or early 1972, Parr's secretary, Norma Kirk, sent checks to the Mills campaign. These represented contributions by dairy farmers and other persons associated with AMPI, the number of which was less than 100.

In the report of Wright, Lindsey, and Jennings to AMPI, dated March 13, 1974, it is related that Stuart Russell, an attorney for AMPI, disbursed \$1,000 by check to Wilbur Mills for President on November 12, 1971. This may be one of the checks which were aggre-

<sup>73</sup> Parr, 15 *Hearings* 6868-70.

<sup>74</sup> Parr, 15 *Hearings* 6872.

gated by Parr. This \$1,000 is included in the total of \$44,975.52 which Russell disbursed in 1971 for political purposes, principally through Bob Lilly, and for which he billed AMPI \$72,550 for reimbursement. Frank Masters, another AMPI attorney, acknowledged that Parr had solicited a \$1,000 contribution which Masters made to Mills; however, Masters denied that he had been reimbursed for this by AMPI.

### 3. EMPLOYEE CHECKOFF SYSTEM

Dr. George Mehren, who became general manager of AMPI in January of 1972, testified that Parr had initiated a checkoff system for employees of the AMPI southern region in 1972. The purpose was to aggregate funds for the Presidential campaign of Congressman Mills. Mehren heard of this plan and disapproved it before it was put into operation because of complaints that had been made to him by employees. It was Mehren's understanding that about 65 employees were programed to contribute about \$25 per month. According to Harold Nelson, the previous general manager of AMPI, Parr was "calling key employees of AMPI,"<sup>75</sup> using his personal approach to solicit contributions for Mills. This was in about January of 1972. Nelson said, "... Mr. Parr is a pretty forceful character, and I do not know what he might have said to these people."<sup>76</sup>

Tom Townsend, who worked for Parr, told the committee that Parr initiated the checkoff system for Mills. He stated, "I know I signed an authorization to deduct—I don't recall the amount—from my check to be sent to the Elect Mills for President campaign."<sup>77</sup> Subsequently, the AMPI comptroller returned Townsend's form with advice that the procedure would be contrary to AMPI policy.

The AMPI comptroller, Robert Isham, advised the committee that Parr had undertaken an effort to mobilize AMPI to elect Wilbur Mills to the Presidency. According to Bob Lilly, assistant to the AMPI general manager, Parr wanted to build a \$2 million cash kitty for Mills.<sup>78</sup>

## G. ADVERTISING MATERIAL PROVIDED THROUGH WALKER AND ASSOCIATES, INC.

### 1. SUMMARY

Walker and Associates, Inc., a Memphis, Tenn. public relations firm, billed Associated Milk Producers, Inc. in the summer of 1971 for \$9,291.53 for the printing of 110,000 bumper strips bearing "Mills for President." The invoice was sent to the attention of David Parr, an official of AMPI whom Mr. Walker assumes placed the order. This amount was paid by AMPI on August 17, 1971.

### 2. THE TRANSACTION

Walker and Associates, Inc. of Memphis, Tenn. specializes in advertising, marketing, and public relations. The president, Deloss Walker, has advised by letter that an order was placed with his firm

<sup>75</sup> Nelson, 15 *Hearings* 6611.

<sup>76</sup> Nelson, 15 *Hearings* 6612.

<sup>77</sup> Townsend, 16 *Hearings* 7117.

<sup>78</sup> Wright, Lindsey and Jennings law firm notes of interview of Lilly, December 27 and 28, 1973, page 12.

in 1971 for 110,000 bumper strips imprinted "Mills for President." The documentation submitted by Walker reflects that an order for 10,000 strips was placed on April 28, 1971, and an order for an additional 100,000 was placed in July of 1971. Invoices for the cost of this work totalling \$9,291.53 were sent on June 30 and July 30, 1971, to AMPI, "Attention Mr. Dave Parr." Walker sent this committee a copy of the bumper strip, along with the invoicing and cover letter.<sup>79</sup> Walker stated that he "would assume the person authorizing the material was David Parr, since the statement was sent to his attention."<sup>80</sup> Walker, however, could not recall specific instructions.

On August 17, 1971, AMPI paid \$9,291.53 to Walker and Associates by its check No. 8406.<sup>81</sup>

## II. CONTRIBUTION FROM GULF OIL CORP.

### A. SUMMARY

Prior to the effective date of the Federal Election Campaign Act of 1971 (on April 7, 1972), an associate of Congressman Mills, Carl Arnold, solicited a contribution from Claude C. Wild, Jr. At this time, Wild was vice president for governmental relations of the Gulf Oil Corp. Wild obtained \$15,000 in cash from the controller of a Gulf subsidiary in the Bahamas which was charged on the books to miscellaneous expenses. Wild delivered the cash to Arnold for the Mills campaign.

In November of 1973, Wild and Gulf Oil were convicted and sentenced for similar illegal corporate contributions to FCRP.<sup>82</sup> On November 29, 1973, Gulf Oil requested the Mills for President committee to refund the \$15,000, and the request was honored.

### B. THE TRANSACTION

Claude Wild, Gulf Oil Corp. vice president for governmental relations, gave public testimony before the Select Committee on November 14, 1973. He stated that at about the time of the New Hampshire primary, on March 7, 1972,<sup>83</sup> he arranged to give \$15,000 to Carl Arnold, a close friend who had worked for the American Petroleum Institute. Wild knew Arnold was also a close friend of Congressman Wilbur Mills, and he assumed that Arnold turned the money over to the Mills campaign. As in the case of the Gulf contribution to FCRP and Senator Jackson's Presidential campaign, discussed elsewhere in this report, Wild acquired this money by calling the controller of Bahamas Exploration, Ltd., a wholly-owned foreign subsidiary of the Gulf Oil Corp. He asked for a delivery of the sum in cash. The controller drew a check for this amount, obtained the proceeds in cash, and charged the item on the corporate books to a

<sup>79</sup> See Walker letter, 25 *Hearings* 12076.

<sup>80</sup> *Ibid.*

<sup>81</sup> Report of Wright, Lindsey and Jennings to AMPI, March 13, 1974.

<sup>82</sup> \$100,000 was given in cash to the Committee To Re-Elect the President, and \$10,000 was given in cash to Senator Jackson's campaign, both of these donations being funded by Wild in the same manner as the Mills contribution as discussed in the Campaign Financing Report. See Claude Wild public testimony to the committee on November 14, 1973, 13 *Hearings* 5460.

<sup>83</sup> The Federal Election Campaign Act of 1971, requiring a full disclosure of contributions, was to take effect on April 7, 1972.

miscellaneous expense account. According to Wild, this contribution for Mills was solicited by Carl Arnold and was picked up by Arnold from Wild's business office.

Carl Arnold was questioned about this transaction during an executive session of the committee:

SANDERS. Did you contact Claude Wild and seek a contribution from him?

ARNOLD. I'm sure I did . . . .

SANDERS. Did Claude Wild deliver a contribution to you for Congressman Mills?

ARNOLD. Claude Wild delivered to me a sealed envelope. This was at his office and he said that there was \$15,000 cash in it, and I had it delivered to the Mills committee. I never opened the envelope.<sup>84</sup>

Arnold estimated the time of this event as late 1971 or early 1972. He said that Wild made no mention of the actual source of the money. Arnold continued, "I certainly never suspected it was corporate money."<sup>85</sup> Arnold cannot recall to whom he gave the money.

ARNOLD. Charles Ward was in charge for a while. At some later date, Joe Johnson had the title of President of the campaign. . . .

\* \* \* \* \*

SANDERS. Did you at the time of delivery, did you state that the money was from Wild?

ARNOLD. No, sir, I would never have done that.

SANDERS. Why wouldn't you have done that?

ARNOLD. It was none of their business.

\* \* \* \* \*

SANDERS. So that upon receiving it at the campaign office they would have no way of knowing the identity of the donor?

ARNOLD. I don't suppose they would.

\* \* \* \* \*

ARNOLD. As I recall, I told Chairman Mills about it sometime around Convention time. . . . I never mentioned the sum to the Chairman. I just said that Claude had been helpful, or words to that effect.<sup>86</sup>

Arnold was asked whether Mills was aware of the magnitude of the contribution or that it was in cash. He replied, "No. That is the kind of question that Chairman Mills doesn't ask, and he doesn't necessarily want to be told, either."<sup>87</sup>

At a July 1972 meeting of the Gulf Oil board of directors, Wild told William L. Henry, then Gulf's executive vice president, that solicitation of political contributions was going on all over the country, and that he (Wild) had done his share for Gulf. Wild advised Henry not to pay any attention to solicitation if approached because he had already done enough. Wild said that Henry must have assumed that the

<sup>84</sup> Arnold, 25 *Hearings* 12023.

<sup>85</sup> Arnold, 25 *Hearings* 12024.

<sup>86</sup> Arnold, 25 *Hearings* 12024-25.

<sup>87</sup> Arnold, 25 *Hearings* 12026.

funds for contributions came from Gulf's Good Government Fund, which had been established by Gulf's legal counsel to receive contributions from Gulf employees.

The specific use which was made of this \$15,000 in cash is not known; however, substantial sums of cash were funneled into the New Hampshire primary on behalf of Mills. Joe Johnson, an AMPI employee who worked in Mills' Presidential campaign and who subsequently became campaign manager, stated during an unsworn interview that, on a couple of occasions, Carl Arnold delivered cash to him in New Hampshire. Johnson did not know the source of the money. Some of the cash was deposited in the Indian Head National Bank of Manchester, and some was used to make direct payments to campaign workers. The largest amount recalled by Johnson on any one occasion was about \$5,000 to \$7,000.

On November 13, 1973, Wild pleaded guilty to a violation of 18 U.S.C. 610 (as did the Gulf Oil Corporation). This statute makes it unlawful for corporations to make contributions to a political candidate or committee. It is also unlawful to knowingly receive any such contributions.<sup>88</sup> The Gulf Oil Corp. was fined \$5,000 and Wild was fined \$1,000.

On November 29, 1973, the Gulf Oil Corp. wrote to the Mills for President Committee advising that the \$15,000 donated by Wild "was made from Gulf's funds" and requesting that it be returned. The \$15,000 was thereafter returned.<sup>89</sup> The failure of Congressman Mills to schedule a time for interview by this committee and the invocation of the fifth amendment by his campaign chairman, Joe Johnson, when called to testify under oath, have foreclosed a complete development of all circumstances of this transaction.

### III. CONTRIBUTION FROM MINNESOTA MINING AND MANUFACTURING COMPANY

#### A. SUMMARY

Minnesota Mining and Manufacturing Co. (3 M) maintained a secret cash fund for making political contributions, one source of which was a European consultant who billed 3 M for services not rendered. The consultant, by previous arrangement initiated by top executives of 3 M, then remitted to 3 M his receipts from these billings. A few weeks before the 1972 Democratic National Convention, the Mills campaign chairman solicited a contribution from an official of 3 M. This solicitation was referred to the chief executive officer of 3 M who issued his personal check for \$1,000 which was delivered to the Mills headquarters; later the chief executive was reimbursed from 3 M's secret fund. On October 17, 1973 the 3 M Corp. and its chief executive officer were convicted and sentenced for illegal corporate contributions to the Committee To Re-Elect the President from the same corporate source.

<sup>88</sup> In addition to the prohibition against corporate contributions, the law in effect before April 7, 1972 prohibited the giving or receiving of contributions in excess of \$5,000 to any one political committee.

<sup>89</sup> See Mellott letter, 25 *Hearings* 12029.

## B. THE TRANSACTION

For many years the executives of Minnesota Mining and Manufacturing Co. maintained a fund for making political contributions. In 1970 when Harry Heltzer became chairman and chief executive officer of 3 M, he became aware of the existence of this fund, although he did not learn precisely the mechanics of how corporate money was channelled to it.

Wilbur Bennett, director of civic affairs for 3 M, explained that an agreement was reached by 3 M top executives with a European consultant whereby the consultant would submit false invoices to 3 M for services when actually no services had been rendered. The consultant was paid by 3 M, and the item was accounted for as an ordinary business expense. The consultant returned the payments to 3 M in the form of cash which was kept under the control of 3 M executives. Specifically, it was maintained in the custody of Irwin Hansen, 3 M's director of finance. The established procedure for release of contributions from this fund was that the chief executive officer would give his authorization on contributions recommended to him, and this would be presented to Hansen who would then provide the authorized amount of cash.

Before the New Hampshire primary, the Mills for President campaign solicited a contribution from Jerome Schaller, the manager of governmental relations in 3 M's Washington, D.C. office. At that time Schaller did not recommend to his superiors that any response be made to the request.

About three weeks before the Democratic National Convention in July of 1972, Schaller received a call from Joe Johnson, the "Mills for President" chairman. Johnson told Schaller that supporters of Mills were going to try to put on a big effort at the convention, and asked Schaller if he could be of financial assistance. Thereupon, Schaller wrote a memorandum to D. O. Opstad, another 3 M official, dated June 19, 1972<sup>90</sup> to advise of the call. Opstad referred the memo to Mr. Bennett in the headquarters office with a notation that "... even as Chairman of W and M (Ways and Means), he's (Mills) a key man." Opstad noted that request was inevitable and continued, "I am not in favor of assisting any other Demo candidate at this time, but believe we should consider here. \$1,000-\$2,000 should be the amount. . . ." <sup>91</sup>

Bennett told the committee during interview that he received this memo from Opstad. He reviewed it with Heltzer, who wrote a check for \$1,000 to Mills' campaign on his personal account. Heltzer was reimbursed for this personal expenditure by cash from Hansen's secret fund.

Heltzer's check was delivered to Schaller at a Miami hotel; Schaller took it to the Mills headquarters where he handed it to Terry Shea who was working for Johnson.<sup>92</sup> It was Schaller's understanding con-

<sup>90</sup> See Schaller memo, 25 *Hearings* 12088.

<sup>91</sup> *Ibid.*

<sup>92</sup> The Mills for President Committee duly reported the Heltzer contribution to the General Accounting Office as of July 14, 1972.

cerning the source of the funds that Bennett would contact other executives of 3 M to explain the need to make the contribution and then accept any amounts they wanted to give. Schaller said he believed the \$1,000 check for Mills was from Heltzer's own funds. He stated that he knew of no indication that any Mills personnel were aware that the contribution came from corporate assets.

On October 17, 1973, the 3 M Corp. and Heltzer entered pleas of guilty to misdemeanor violations of the Federal Corrupt Practices Act. The basis of the charge was contributions which had been made from the secret corporate fund to the Committee To Re-Elect the President. The corporation was fined \$3,000, and Heltzer was fined \$500.

Attachment 1 to Chapter 7, page 1 of 2.

SAM J. ERVIN, JR., N.C., CHAIRMAN  
 HOWARD H. BAKER, JR., TENN., VICE CHAIRMAN  
 HERMAN E. TALMADGE, CAL. EDWARD J. GUNNEY, FLA.  
 DANIEL K. HOUSTE, HAWAII LOWELL P. WEISBERG, JR., CONN.  
 JOSEPH M. MONTOYA, N. MEX.

KAMUEL DASH  
 CHIEF COUNSEL AND STAFF DIRECTOR  
 FRED D. THOMPSON  
 MINORITY COUNSEL  
 ROBERT L. EDWINSTEN  
 DEPUTY COUNSEL

## United States Senate

SELECT COMMITTEE ON  
 PRESIDENTIAL CAMPAIGN ACTIVITIES  
 (PURSUANT TO S. RES. 84, 93D CONGRESS)  
 WASHINGTON, D.C. 20510

January 24, 1974

Hon. Wilbur Mills  
 Room 1136 Longworth Bldg.  
 Washington, D.C.

Dear Congressman Mills:

As you know the Senate Select Committee on Presidential Campaign Activities is investigating various allegations concerning the employment of corporate funds by Associated Milk Producers, Inc., and others for the benefit of various political candidates in the 1972 presidential campaign and election. In this regard, we are interested in obtaining certain information and materials from you, of course, at your convenience.

While we know that your schedule is extremely tight, the Committee would appreciate it if you would consent to meet with members of our staff. Members of our staff will be in contact with members of your staff in the very near future.

Thank you in advance for your cooperation.

Sincerely,

*Sam J. Ervin, Jr.*

Sam J. Ervin, Jr.  
 Chairman



Attachment 1 to Chapter 7, page 2 of 2.

SAW J. ERVIN, JR., N.C., CHAIRMAN  
HOWARD H. BAKER, JR., TENN., VICE CHAIRMAN  
HERMAN E. TALMADGE, CAL.  
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MINORITY COUNSEL  
RUFUS L. EDGISTON  
DEPUTY COUNSEL

## United States Senate

SELECT COMMITTEE ON  
PRESIDENTIAL CAMPAIGN ACTIVITIES  
(PURSUANT TO S. RES. 44, 90 CONGRESS)

WASHINGTON, D.C. 20510

February 7, 1974

Honorable Wilbur Mills  
1136 Longworth House Office Bldg.  
Washington, D.C.

Dear Congressman Mills:

This letter is intended as a follow-up to my letter to you on January 24, 1974, and is designed to provide certain specifics regarding the inquiries the Committee wishes to make of you.

It has been revealed in public testimony before the Committee that Gulf Oil Company contributed \$15,000.00 in corporate funds to your presidential campaign, which amount, we understand, has since been returned. It also appears from evidence gathered by the Committee that Associated Milk Producers, Inc. may have made corporate contributions to your campaign, and may have paid for certain services rendered your campaign by several individuals.

We have absolutely no knowledge that you were contemporaneously aware of these circumstances. Nevertheless, to fulfill our mandate under S. Res. 60, we feel it necessary to speak with you respecting these matters. The Committee would also like to examine certain records in your files and our staff will promptly contact your staff to specify the records we would like to see.

A member of the Committee will shortly be in touch with you concerning these matters. We hope that you, at your convenience, can find time in your busy schedule to meet with a member of the Committee.

Thank you for your cooperation in these regards.

Sincerely,

*Sam J. Ervin, Jr.*  
Sam J. Ervin, Jr.  
Chairman



## CHAPTER 8

### The Hughes-Rebozo Investigation and Related Matters

#### INTRODUCTION

S. Res. 60 mandated the Senate Select Committee to conduct investigations relating to "any transactions or circumstances relating to the source, the control, the transmission, the transfer, the deposit, the storage, the concealment, the expenditure or use in the United States or in any other country, of any moneys or other things of value collected or received for actual or pretended use in the Presidential election of 1972 \* \* \*" That resolution further mandated this committee to "determine whether any money as described above had been placed in any secret fund or place of storage for use in financing any activity which was sought to be concealed from the public, and if so, what disbursement or expenditure was made of such secret fund, and the identities of any person or group of persons or committee or organization having any control over such secret fund or the disbursement or expenditure of the same."

This report reflects the results of the committee's investigation into the receipt, storage, concealment and expenditure of cash contributions by Charles G. Rebozo and related matters. The contributions examined included the receipt by Rebozo of \$100,000 in cash from Howard Hughes and \$50,000 in cash from A. D. Davis.

The investigation was extensive and touched, at times, on incidents involving Presidential aides and a wide diversity of Government agencies, including the Department of Justice, the Internal Revenue Service, the Treasury Department, the Atomic Energy Commission, the Civil Aeronautics Board, the Federal Reserve Board, the Federal Bureau of Investigation, and the Central Intelligence Agency. Indeed, the list of witnesses interviewed by the committee reflects the number of significant Government officials, past and present, who both aided and inhibited the investigation of this matter.<sup>1</sup>

The committee received complete, unstinting cooperation from certain departments and agencies, including the Department of Justice and its Antitrust Division, the AEC, the CAB, and the Securities and Exchange Commission, all of whose efforts contrasted sharply with other witnesses and departments of the Government. However, significant conflicts in testimony could not be conclusively resolved by the committee because crucial documents and testimony were not produced in response to subpoenas issued by the committee. The principal witnesses who refused to comply fully with subpoenas and provide documents and testimony included Charles G. Rebozo—for personal documents and in his capacity as president of the Key Biscayne Bank—F. Donald and Edward Nixon and a number of Hughes' employees.

<sup>1</sup> See appendix for list of witnesses interviewed, p. 1075.

In addition, the committee, in its letter to the President's counsel on June 6, 1974, provided substantial evidence relating to Rebozo's use of cash funds to the direct benefit of President Nixon. The purpose of the letter, sent by Senators Ervin and Baker, was to provide "the President an opportunity to comment on this material prior to the filing of this report." The committee also hoped to obtain information and documents that would assist in its review of the evidence set forth in the letter.<sup>2</sup> Unfortunately, counsel to the President, in his response of June 20, 1974, chose not to respond to any of the specific evidence on which the committee sought clarification and additional information except to deny that the President instructed "Rebozo to raise and maintain funds to be expended on the President's personal behalf."<sup>3</sup>

In addition, Chairman Ervin, by letter on June 21, 1974, and subpoena, sought to afford Mr. Rebozo an opportunity to respond to the information contained in the letter to the President's counsel. Any assistance Mr. Rebozo's testimony may have afforded the committee in its review of these matters was precluded, however, when the witness left the country and became unavailable for service of the subpoena.

Section I of the report provides a brief description of the Hughes Nevada operations and Hughes' interest in political contributions.

Section II describes the background and initial discussions of the principals that culminated in the delivery of \$100,000 in cash to Rebozo from Hughes. An abortive effort by Hughes' representatives to deliver \$50,000 in cash to President-elect Nixon is described in section III.

Section IV describes Rebozo's assignments on behalf of the Nixon administration in 1969, including his efforts to raise funds and his responsibility for President Nixon's properties in Key Biscayne, Fla.

Section V includes an analysis of the delivery of two packages from Hughes of \$50,000 each to Rebozo. This section also reviews evidence relating to whether Rebozo retained or used any part of the \$100,000 cash contribution including the efforts by the committee to determine whether any of the currency returned to Hughes had, in fact, been circulated after the dates of delivery to Rebozo.

Section VI describes the attempt by Howard Hughes to acquire the Dunes Hotel and Casino in Las Vegas and the discussions about the pending acquisition between Hughes' representative Richard Danner and then Attorney General John Mitchell.

Rebozo's fundraising role for the 1972 Presidential election is examined in section VII including his receipt of \$50,000 in cash from A. D. Davis in April 1972.

While Rebozo testified he retained the Hughes' \$100,000 contribution past the 1972 election hoping it could be used in 1974 or 1976, section VIII describes his efforts to return \$100,000 after the Internal Revenue Service contacted him in 1973. This section reviews the contacts Rebozo had with a variety of individuals including the President and his aides during early 1973 regarding his ultimate decision to return funds to Hughes.

Section IX reflects evidence received by the committee relating to the initial IRS investigation of Rebozo and communications the President and his aides had regarding that investigation.

<sup>2</sup> See letter from Senators Ervin and Baker to James St. Clair, dated June 6, 1974, 26 *Hearings*, exhibit 1.

<sup>3</sup> See letter from James St. Clair to Senators Ervin and Baker, dated June 20, 1974, 26 *Hearings*, exhibit 2.

The issue of the possible use of the Hughes' \$100,000 is reviewed in section X which includes an analysis of funds expended by Rebozo on behalf of President Nixon. The analysis reviews the use by Rebozo of his attorney's trust accounts at two banks to pay for expenditures incurred for improvements to the President's Key Biscayne properties.

Conflicts in testimony relating to significant issues in the report are analyzed in summary form in section XI.

Section XII is a brief summary of the matters related in this report including a review of the President's response, through his counsel, to Chairman Ervin and Vice Chairman Baker's letter of June 6, 1974, and the failure of Mr. Rebozo to appear before the committee to respond to matters set forth in the report.

Finally, section XIII presents the legislative recommendations of the committee based on this investigation.

## I. HUGHES AND THE HUGHES NEVADA OPERATIONS

Howard Hughes moved to Las Vegas, Nev., in November of 1966. Thereafter, Robert Maheu, a former FBI agent, contracted with Hughes through his own company to provide management services for hotels, casinos, and other holdings that Hughes began to acquire. Maheu has stated that he was to report on these management matters directly to Hughes and not to executives of Hughes Tool Co.<sup>5</sup>

Maheu testified that as part of his management responsibilities, he was consulted with regard to which political leaders should be supported through political contributions from Mr. Hughes. By 1969, Hughes' cash contributions were furnished from moneys from the Silver Slipper Casino, since that entity was owned by Hughes as a sole proprietorship.<sup>6</sup>

Maheu has testified that Mr. Hughes was cognizant of and approved of all political contributions. Those contributions were perceived by Hughes as insuring access and influence over significant political leaders.<sup>7</sup>

Because of evidence before the committee that Mr. Hughes had pertinent testimony with regard to political contributions being investigated, the committee requested his appearance by letter which was never answered.<sup>8</sup> Although a subpoena for Hughes' appearance before the committee was approved by the committee chairman, it could not be served because Hughes has remained out of the country during the entire period of the committee's investigation.

## II. BACKGROUND OF THE CONTRIBUTION COMMITMENT

The Hughes contribution of \$100,000 to President Nixon's 1972 reelection campaign, which Richard Danner delivered to C. G. Rebozo,

<sup>5</sup> Maheu IRS interview, Aug. 30, 1971, p. 2.

<sup>6</sup> Thomas Bell interview, Dec. 18, 1973; Robert L. Morgan executive session, Dec. 11, 1973, pp. 24-38, 190-204; Robert Maheu interview, Jan. 20, 1974.

<sup>7</sup> Robert Maheu, SEC deposition; Mar. 9, 1973, vol. 3, p. 303. See also memo Hughes to Maheu, undated; a copy of the memorandum can be found in the committee files but one says in pertinent part:

Bob, as soon as this predicament is settled, I want you to go see Nixon as my special confidential emissary. I feel there is a really valid possibility of a Republican victory this year. If that could be realized under our sponsorship and supervision every inch of the way then we would be ready to follow with Gov. Paul Laxalt as our next candidate.

<sup>8</sup> For copy of letter, see 26 *Hearings*, exhibit 4.

was first committed, as to the first \$50,000, during the 1968 Presidential campaign. Some facts relating to the early social and political ties of Danner, Rebozo, and the President, leading up to this commitment and the failure to fulfill it in 1968, are pertinent to an understanding of the ultimate delivery of the Hughes contribution.

Dick Danner served as the FBI special agent in charge of the Miami area from 1940 until January 1946, when he resigned from that post to manage George Smathers' first primary campaign for Congress.<sup>9</sup> Danner recalls meeting Charles G. Rebozo in 1940, when he first came to Miami with the FBI.<sup>10</sup> Rebozo does not recall meeting Danner until 1946, when he saw him at the El Comodore Hotel in Miami when Smathers made his decision to run for Congress.<sup>11</sup> Rebozo, a friend of Smathers from elementary school days, also played an active role in the successful 1946 Smathers' campaign.

President Nixon was also first elected to Congress in 1946, and he and then-Congressman Smathers became good friends in the House of Representatives. Congressman Nixon occasionally vacationed in Florida with Smathers, and on one of these visits in 1947, Smathers introduced Congressman Nixon to Dick Danner.<sup>12</sup> After the 1950 election, when both Smathers and Nixon were elected to the U.S. Senate, Smathers invited Senator-elect Nixon down to Florida for a vacation. After staying with Dick Danner in Vero Beach for a few days, Danner and Senator-elect Nixon drove to Key Biscayne where Danner introduced Nixon to Charles "Bebe" Rebozo.<sup>13</sup>

#### A. DANNER'S VERSION OF CONTRIBUTION COMMITMENT

Danner testified that in the midsummer of 1968, he met with candidate Richard Nixon and Rebozo, and was asked to determine if Howard Hughes would contribute to the Nixon campaign.<sup>14</sup> Danner was certain that he had not initiated discussions with Rebozo about a Hughes contribution, since in 1968 Danner had no association with Hughes whatsoever, and "didn't know any of the principals involved."<sup>15</sup> Danner was sure that either Mr. Nixon or Mr. Rebozo first asked him to check on a possible Hughes contribution at their meeting in 1968.<sup>16</sup> Danner's diary reflects that this meeting with candidate Nixon, Rebozo, and Danner could have occurred as early as April 10, 1968, or as late as July 10, 1968.<sup>17</sup>

<sup>9</sup> Danner was special agent in charge from 1940 until 1946 except for 1½ years when he was in the Dallas FBI office. See also Miami Herald, Thursday, Sept. 5, 1946, p. 1.

<sup>10</sup> See Danner testimony in *Maheu v. Hughes Tool Co.*, U.S. District Court Central District of California, May 3, 1974, p. 7771.

<sup>11</sup> See Rebozo interview, Oct. 8, 1973, p. 3. See also Smathers interview, Jan. 10, 1974, p. 1.

<sup>12</sup> Danner interview, Aug. 30, 1973, p. 1. See also Danner testimony in *Maheu v. Hughes Tool Co.*, p. 7770.

<sup>13</sup> See Rebozo interview with Miami Herald, Nov. 1, 1973, p. 23-A; see also Smathers interview, Jan. 10, 1974, p. 3. See also Danner testimony in *Maheu v. Hughes Tool Co.*, pp. 7770-71.

<sup>14</sup> 20 *Hearings* 9497, 9503. See also Danner diary, 1968.

Danner placed his meeting with Rebozo and Nixon as a few weeks prior to his meeting with Ed Morgan, which was in late August of 1968. 20 *Hearings* 9503. However, Danner also recalled that at the same meeting, candidate Nixon or Rebozo also asked him to check with Clint Murchison, Jr., about the possibility of a contribution from him. Danner's diary shows that he met with Murchison on or about Tuesday, June 4, 1968, which would place his meeting with Nixon and Rebozo prior to June 4, 1968; 26 *Hearings*, exhibit 4A.

<sup>15</sup> 20 *Hearings* 9503.

<sup>16</sup> 20 *Hearings* 9504.

<sup>17</sup> See Danner diary from 1968 on Apr. 10, May 17, July 10. 26 *Hearings*, exhibit 5.

Danner testified that Rebozo "suggested the possibility that I discuss the matter with Ed Morgan."<sup>18</sup> Danner was unsure how Rebozo knew that Morgan represented Hughes, but Danner's diary from 1968 indicates a long-distance call from Danner to Rebozo on July 23, 1968, during which they discussed Mr. Edward P. Morgan.<sup>19</sup> Danner agreed to talk to Morgan about a possible contribution from Hughes, since he had been working with Morgan on negotiating the sale of the Tropicana in Las Vegas to the Winn-Dixie Co. (owned by A. D. Davis and brothers).

Danner's diary reflects that he saw Ed Morgan on August 20 and August 21, 1968, and Danner testified that he asked Morgan about a possible Hughes contribution to the 1968 campaign.<sup>20</sup> Morgan said he would check on the matter with Robert Maheu and get back to Danner as soon as possible.<sup>21</sup> Following this meeting with Morgan, Danner's diary shows a call to Rebozo and Richard Nixon to discuss the subject of campaign funds and Howard Hughes, among other topics.<sup>22</sup>

Morgan called Robert Maheu in Las Vegas and explained to him that Bebe Rebozo, through Richard Danner, wanted to know whether Howard Hughes would be willing to make a contribution to the Nixon campaign.<sup>23</sup> Maheu also recalls that Morgan mentioned that \$50,000 was the requested amount for the contribution and that the contribution should be transmitted in cash. Maheu said he told Morgan that he would take the matter up with Howard Hughes.<sup>24</sup>

According to Maheu, Hughes felt that contributing through Rebozo was a good means of insuring access to Nixon were he elected President. Therefore, Hughes authorized \$50,000 cash delivery to the 1968 Nixon campaign according to Robert Maheu.<sup>25</sup> Maheu relayed the approval of Hughes to Edward P. Morgan, and suggested that Morgan, Rebozo, and Danner meet to arrange the mechanics of the delivery.<sup>26</sup>

Morgan recalled that shortly after he had transmitted this information to Danner, Danner told him that a meeting was arranged at Rebozo's suite at the Mayflower Hotel to discuss the mechanics for delivering the contribution.<sup>27</sup>

## B. REBOZO'S VERSION

First, Rebozo states that it was Danner who first brought up the subject of a possible Hughes contribution, and not Rebozo or candidate Nixon.<sup>28</sup> Second, Rebozo denied that there was any meeting among Danner, Rebozo, and Nixon to discuss such matters with Rebozo either during or after the 1968 campaign.<sup>29</sup>

<sup>18</sup> 20 *Hearings* 9496.

<sup>19</sup> See Danner diary, July 23, 1968, 26 *Hearings*, exhibit 6.

<sup>20</sup> 20 *Hearings* 9504. Also see Danner diary, Aug. 20-21, 1968, 26 *Hearings*, exhibit 7.

<sup>21</sup> Morgan interview, Dec. 5, 1973, p. 2; 20 *Hearings* 9497.

<sup>22</sup> See Danner diary from Aug. 20 and Aug. 21, 1968, 26 *Hearings*, exhibit 7. See also interview with Ed Morgan, Dec. 5, 1973, p. 2, 20 *Hearings* 9497.

<sup>23</sup> Morgan interview, Dec. 5, 1973, p. 2.

<sup>24</sup> Maheu interview, Jan. 20, 1974; it was also Edward Morgan's explicit understanding that the contribution was to be in cash. (Edward Morgan interview, Dec. 5, 1973.)

<sup>25</sup> Maheu interviews, Sept. 15, 1973, and Jan. 20, 1974.

<sup>26</sup> Maheu interview, Jan. 20, 1974; Edward Morgan interview, Dec. 5, 1973.

<sup>27</sup> Edward Morgan interview, Dec. 5, 1973.

<sup>28</sup> 21 *Hearings* 9940.

<sup>29</sup> 21 *Hearings* 9940, 9941.

Rebozo did acknowledge, however, that there were some occasions in the 1968 campaign when Danner, President Nixon, and Rebozo met together.<sup>30</sup>

President Nixon has also issued denials that he met with Dick Danner and Bebe Rebozo to discuss a contribution from Howard Hughes. On January 16, 1974, Gerald Warren, Deputy White House Press Secretary, responded to press accounts of Danner's testimony by saying, "We have denied that the President discussed [with Mr. Danner] a possible contribution of any amount from Hughes."<sup>31</sup> Warren also told the Washington Post that President Nixon has never "discussed finances with Mr. Danner."<sup>32</sup> However, the handwritten notes in Danner's own diary from 1968 indicate that on September 27, 1968, candidate Nixon called Danner "re finances."<sup>33</sup>

### C. MEETING AMONG DANNER, REBOZO AND MORGAN

Danner, Rebozo and Morgan met for breakfast on September 11, 1968.<sup>34</sup> At this meeting Morgan recalls explaining that a contribution from Hughes of \$50,000 in cash would be made to the Nixon campaign if there were some assurance that Nixon would personally acknowledge the receipt of the cash.<sup>35</sup> On September 9, 1968, Robert Maheu had received \$150,000 in two checks from Nadine Henley of the Hughes organization, which was to be used in part for a campaign contribution to Mr. Nixon.<sup>36</sup>

Rebozo testified that "Morgan wanted to hand the money to the President, himself," but that Rebozo explained to Morgan that the President would never personally accept a contribution.<sup>37</sup> In addition, Rebozo testified that he felt uneasy about accepting a large cash contribution from Howard Hughes through Edward Morgan because of the 1956 loan from Hughes to F. Donald Nixon and because Ed Morgan represented Drew Pearson.<sup>38</sup>

Danner recalled no request by Morgan to pay the money directly to candidate Nixon, as Rebozo claimed, but testified that the contribution "was to be made through ordinary sources, not to the President, not to the candidate, but whoever was handling his campaign funds."<sup>39</sup> Danner also recalled that Rebozo indicated his willingness to handle the Hughes contribution at this meeting.<sup>40</sup>

Morgan recalled that he had merely asked for an assurance that Hughes received an acknowledgement of the contribution, but that

<sup>30</sup> Rebozo interview, Jan. 17, 1974, p. 1.

<sup>31</sup> New York Times, Jan. 17, 1974, p. 30.

<sup>32</sup> Washington Post, Jan. 17, 1974, p. A1.

<sup>33</sup> See 1968 Danner diary, Sept. 27, 1968, 26 *Hearings*, exhibit 8. In addition, Danner also testified that at his earlier meeting with candidate Nixon and Rebozo to discuss the possibility of a Hughes contribution, one of them asked Danner to contact Clint Murchison, Jr., about a possible campaign contribution. Danner agreed to make the contact, and did in fact solicit a contribution from Murchison as reflected by Danner's diary on or about June 4, 1968, but Murchison had already made other arrangements to contribute to the 1968 campaign. 20 *Hearings* 9504.

Murchison has advised the committee that he discussed a contribution with President Nixon who told Murchison to give the contribution to him or Rose Mary Woods. (Murchison interview.)

<sup>34</sup> See Danner diary Sept. 11, 1968, 26 *Hearings*, exhibit 9.

<sup>35</sup> See Morgan interview, Dec. 5, 1973, p. 2.

<sup>36</sup> See Henley exhibits No. 2 and No. 3, 24 *Hearings* 11528-29, and Henley interview, Jan. 22, 1974.

<sup>37</sup> 21 *Hearings* 9943.

<sup>38</sup> *Ibid.*

<sup>39</sup> 20 *Hearings* 9500-01.

<sup>40</sup> 20 *Hearings* 9499.



neither Rebozo nor Danner would give him such assurances at this meeting.<sup>41</sup>

#### D. NEW YORK MEETING

Danner testified that sometime after the meeting in Washington, D.C., when Edward Morgan explained that the contribution would be forthcoming, Danner was told by Morgan that Bebe Rebozo would be contacted to make arrangements for the contribution.<sup>42</sup> Danner said that shortly after receiving this information, Danner traveled to New York City to discuss some campaign matters with John Mitchell and Maurice Stans. Danner initially testified that Edward Morgan accompanied him on this trip,<sup>43</sup> but after discussing the matter with Morgan, Danner stated that Morgan was not present in New York.<sup>44</sup>

Danner recalled that Rebozo introduced him to Stans and Mitchell in the New York campaign offices.<sup>45</sup> Danner recalled having a brief discussion with Stans, and a longer discussion with John Mitchell about the Florida Democrats for Nixon committee, as well as possible campaign strategy. Danner testified that during his meeting with Mitchell and Rebozo in the late morning, Rebozo was called out of the meeting to answer a telephone call directing him to meet with some Hughes representatives who were allegedly handling the cash contribution to the Nixon campaign.<sup>46</sup>

Rebozo returned sometime later,<sup>47</sup> according to Danner, and was "very angry and upset" because he learned that the meeting was to be with F. Donald Nixon, older brother of President Nixon, and John Meier, an employee of Robert Maheu and Howard Hughes and acquaintance of F. Donald Nixon.<sup>48</sup>

Danner recalls Rebozo telling him that Rebozo was not about to see, talk to, or associate with F. Donald Nixon and John Meier or have anything to do with them in the area of political contributions.<sup>49</sup> Therefore, Danner testified that Rebozo did not have the meeting with John Meier and Donald Nixon and that no contribution from Hughes was delivered at that time. Danner knew of no other attempts to deliver the \$50,000 cash contribution prior to the 1968 election.

Donald Nixon recalled that early in the 1968 campaign, John Meier had some conversations with him about how Howard Hughes had made arrangements to make a contribution to Mr. Nixon. Nixon recalled that Meier commented to him that Meier and Robert Maheu wanted to make some arrangements for a contribution.<sup>50</sup>

Nixon also recalled that John Meier wanted to get together with Bebe Rebozo and Donald Nixon in 1968 during the campaign. However, Nixon recalled that Bebe Rebozo canceled the meeting that was supposed to be held among Meier, Nixon, and Rebozo when he found out that John Meier was going to be involved.<sup>51</sup> Rebozo testified that he met once with F. Donald Nixon and John Meier during the 1968

<sup>41</sup> Morgan interview, Dec. 5, 1973, p. 2.

<sup>42</sup> 20 *Hearings* 9506.

<sup>43</sup> See Danner interview, Aug. 30, 1973, p. 3.

<sup>44</sup> 20 *Hearings* 9506. Morgan also denies that he was in New York on that occasion (Morgan interview, Dec. 5, 1973, p. 2).

<sup>45</sup> *Ibid.*

<sup>46</sup> 20 *Hearings* 9508. In his affidavit for the IRS on July 5, 1973, Danner stated that Rebozo spoke to John Meier on the telephone. However, Danner testified before the Select Committee that he did not know with whom Rebozo spoke on the phone.

<sup>47</sup> Danner was unsure whether he was still meeting with John Mitchell when Rebozo returned. 20 *Hearings* 9509.

<sup>48</sup> 20 *Hearings* 9506.

<sup>49</sup> 20 *Hearings* 9509.

<sup>50</sup> See interview with F. Donald Nixon, Nov. 17, 1973, p. 5.

<sup>51</sup> *Id.* at p. 6.

campaign, but that there was no connection between the meeting and his refusal to accept the \$50,000 contribution.<sup>52</sup> Rebozo testified subsequently that the presence of Meier and Nixon in New York "would have added to my [Rebozo's] rationale" in refusing to accept the money.<sup>53</sup>

Danner testified that his meeting in New York with Rebozo and Mitchell occurred after his meeting with Morgan and Rebozo in Washington, D.C. However, hotel records from New York hotels from the summer and fall of 1968, indicate that the only dates on which both John Meier and F. Donald Nixon were staying in New York, were from July 7 through July 10, 1968, at the New York Hilton.<sup>54</sup> In addition, John Meier testified before the SEC that he had dinner with Donald Nixon on July 8, 1968, at which time he met Bebe Rebozo.<sup>55</sup> Furthermore, Danner's own 1968 diary shows that Danner was in New York City on Monday, July 8, 1968, for meetings with "John Mitchell, Tom Evans, et al."<sup>56</sup> Finally, former Attorney General John Mitchell recalled meeting Dick Danner in New York prior to the Republican Convention in the summer of 1968.<sup>57</sup> Mitchell recalled that Howard Hughes contributed to the 1968 campaign, but he could not recall any discussion of the contribution at his summer meeting with Danner.<sup>58</sup>

Nadine Henley, senior vice president of the Summa Corp., testified that on July 30, 1968, 3 weeks after the New York meeting, Robert Maheu told her that Howard Hughes had approved a \$50,000 contribution to both the Nixon and the Humphrey Presidential campaigns.<sup>59</sup>

### III. ATTEMPTED CONTRIBUTION AT PALM SPRINGS

Robert Maheu's telephone messages indicate that he was called on November 22, 1968, by a Stephen Craig of President-elect Nixon's office concerning a possible campaign contribution since the campaign had a deficit of \$800,000.<sup>60</sup>

Maheu recalled having a conversation with Howard Hughes after the election in which Maheu was instructed to make arrangements through then-Governor Paul Laxalt to make the promised \$50,000 cash contribution to President-elect Nixon.

Maheu testified that he approached Governor Laxalt who agreed to do what he could to help Maheu effect the delivery of the contribution. Former Governor Laxalt, however, recalled that Maheu contacted him sometime after the 1968 election to discuss fulfilling a campaign pledge made through Robert Finch to National Republican Campaign Committee.<sup>61</sup>

Laxalt recalled that he agreed to set up a meeting between Maheu and representatives of President-elect Nixon during the Republican

<sup>52</sup> Rebozo interview, Oct. 8, 1973.

<sup>53</sup> 21 *Hearings* 10121.

<sup>54</sup> See New York Hilton Hotel Records, July 1968, 26 *Hearings*, exhibit 10.

<sup>55</sup> Meier interview with the SEC, Oct. 23, 1973, p. 8.

<sup>56</sup> See Danner diary, July 8, 1968, 26 *Hearings*, exhibit 11.

<sup>57</sup> The Republican Convention was from Aug. 5 to 8, 1968.

<sup>58</sup> Mitchell interview, Oct. 18, 1973, p. 6. Mr. Mitchell refused to testify further about this matter after the Oct. 18 interview on advice of counsel pending the outcomes of his criminal trials.

<sup>59</sup> See Henley interview, Jan. 22, 1974, p. 3. See also Nadine Henley exhibit 1, 24 *Hearings* 11526.

<sup>60</sup> See Maheu's telephone logs, Nov. 22 1968, 26 *Hearings*, exhibit 12.

<sup>61</sup> Paul Laxalt interviews, Oct. 11, 1973 and Dec. 20, 1973.

Governors' Conference in Palm Springs, Calif., on December 6, 1968.<sup>62</sup>

Laxalt says that he had no plans to contact anyone in particular on the Nixon staff to arrange for the delivery and that he certainly did not contemplate or plan any Maheu-Nixon meeting.<sup>63</sup>

Robert Finch recalled only that former Governor Laxalt called him to set up a meeting of the Western Governors with President-elect Nixon.<sup>64</sup>

Finch said he had no knowledge of any meeting between Robert Maheu and President-elect Nixon.<sup>65</sup>

Nadine Henley recalled that in early December 1968, Robert Maheu requested \$50,000 in cash from her in order to make a campaign contribution to Richard Nixon to cover campaign deficiencies in the 1968 campaign.<sup>66</sup>

In addition, on December 5, 1968, Robert Maheu received \$50,000 in \$100 bills from the cage at Sands Casino.<sup>67</sup> Therefore, Robert Maheu appears to have received approximately \$100,000 in \$100 bills on or about December 5 and 6, 1968, prior to his trip to Palm Springs.

Perhaps coincidentally, on Thursday, December 5, 1968, Richard Danner flew from Miami to Las Vegas to have discussions with Robert Maheu about possible employment by the Hughes Tool Co. as manager of the Frontier Hotel.<sup>68</sup>

Danner testified that he met with Robert Maheu and others in the late afternoon of December 5, 1968, and that he also saw Maheu again on December 6, 1968. Danner testified that the substance of their discussions solely concerned his possible employment. Danner emphasized that there was no discussion whatsoever of any campaign contributions, nor was Danner given any cash by Maheu during the time he was in Las Vegas.<sup>69</sup>

On November 29, 1972, Danner told an agent of the Internal Revenue Service that Danner and Maheu began discussing the prospective contribution "shortly after the 1968 election, which preceded his employment with Hughes Tool Co."<sup>70</sup>

Danner's diary from 1968 shows that on Thursday, November 21, Danner received a long-distance call from Bebe Rebozo about a "house project." Danner's diary shows five more telephone conversations with Rebozo in the week following November 21, and then a call from Danner to Rebozo on Friday, November 29, about the "project."<sup>71</sup> Danner testified that he could not recall what the "house project" was or the substance of his conversations during that time with Rebozo. This time period in late November, shortly before Danner traveled to Las Vegas to meet with Robert Maheu, also coincided with the initial discussions in Florida about the purchase by President-elect Nixon of the Key Biscayne home of former Senator George Smathers. However, Danner testified that he played no role in the

<sup>62</sup> *Ibid.*

<sup>63</sup> See Paul Laxalt interview, Oct. 11, 1973.

<sup>64</sup> Finch interview, Nov. 1973, pp. 1-2.

<sup>65</sup> *Ibid.*

<sup>66</sup> Nadine Henley interview, pp. 3-4, Jan. 22, 1974. See later section for fuller explanation of source of money.

<sup>67</sup> See fuller explanation in following section on sources of funds.

<sup>68</sup> See Danner diary, Dec. 5, 1968, 26 *Hearings*, exhibit 13.

<sup>69</sup> 24 *Hearings* 11448-49.

<sup>70</sup> IRS memo, Nov. 29, 1972.

<sup>71</sup> See 1968 Danner diary, week of Nov. 21-28 and Nov. 29. 26 *Hearings*, exhibit 14.

purchase by President Nixon of his Key Biscayne home and that he could not recall what the "house project" was.<sup>72</sup>

President-elect Nixon flew to Palm Springs for an appearance at the Republican Governors' Association Conference on December 6, 1968. There he met for talks with small groups of Governors on the terrace of the Walter Annenberg home where he was staying.<sup>73</sup> Maheu recalled that he received the money from Henley and flew to Palm Springs with Paul Laxalt. Maheu also recalled driving to the Annenberg residence where Nixon was staying, and while Maheu waited in the car with the money, Laxalt went in the home to make arrangements for the delivery. Maheu recalled that Laxalt returned to the car and said that Nixon's schedule prohibited any meeting with Robert Maheu.<sup>74</sup>

Danner testified that he was not aware of the attempted delivery at Palm Springs by Maheu until after he had joined the Hughes Tool Co. in early 1969.<sup>75</sup>

When Richard M. Nixon was inaugurated President of the United States on January 20, 1969, the \$50,000 contribution committed initially by Edward P. Morgan in the summer of 1968, had still not been delivered to the Presidential campaign.

#### IV. REBOZO'S 1969 RESPONSIBILITIES

##### A. INTRODUCTION

There is evidence before the committee indicating that in 1969 Charles (Bebe) Rebozo exercised a number of responsibilities on behalf of the White House and President Nixon. These simultaneous assignments included the following:

1. Fundraising for the use of the administration;
2. The disbursal of funds for various administration-connected projects;
3. Acting as agent for President Nixon in the purchase, improvement, and maintenance of his home in Key Biscayne, Fla.;
4. Fundraising for the President's reelection campaign.

##### B. FUNDRAISING

On February 17, 1969, H. R. Haldeman wrote a confidential memorandum to John Ehrlichman which stated in part:

Bebe Rebozo has been asked by the President to contact J. Paul Getty in London regarding major contributions.

Bebe would like advice from you or someone as to how this can legally and technically be handled. The funds should go to some operating entity other than the national committee so that we can retain full control of their use.

Bebe would appreciate your calling him with this advice as soon as possible since the President has asked him to move quickly. [Signed] H.<sup>76</sup>

<sup>72</sup> 24 *Hearings* 11426.

<sup>73</sup> See New York Times, Dec. 7, 1968, p. 1, col. 4.

<sup>74</sup> Robert Maheu interview, Jan. 20, 1974.

<sup>75</sup> 24 *Hearings* 11448.

<sup>76</sup> See Haldeman memo to Ehrlichman, dated Feb. 17, 1969, 26 *Hearings*, exhibit 15.

H. R. Haldeman stated through his attorney that he recalled that Rebozo attempted to obtain a contribution from J. Paul Getty.<sup>77</sup>

Edward L. Morgan said in an interview that shortly after his appointment to the White House staff in early 1969, he was called by John Ehrlichman.<sup>78</sup> Morgan said that Ehrlichman requested his advice on whether a contributor like J. Paul Getty could give \$50,000 to the administration to be used for social events at the White House until July 1969, when a new budget appropriation would be available for such purposes.<sup>79</sup> Morgan stated that he called Chuck Stuart, a friend of his in the White House who also worked for Ehrlichman, to discuss the matter, and that they agreed that using private contributions to fund White House social functions was inappropriate.<sup>80</sup> Morgan also said that he advised Ehrlichman that he and Stuart agreed that private contributions for such social functions were inappropriate.<sup>81</sup>

Rebozo testified that Herb Kalmbach asked him to make an appointment for Kalmbach with J. Paul Getty for the purpose of obtaining a contribution for the 1972 election.<sup>82</sup> Rebozo testified that he had not been asked by anyone else to speak to Getty himself nor had he been requested by anyone else to obtain money from Mr. Getty.<sup>83</sup>

Herbert Kalmbach testified that Rebozo had asked Kalmbach to solicit funds from Mr. Getty for the 1970 senatorial campaign program.<sup>84</sup> Kalmbach also testified that Rebozo "set it up for him to see Mr. Getty in Europe."<sup>85</sup>

General Alexander Haig testified that President Nixon had advised him that Mr. Rebozo had received campaign contributions frequently, and that he "normally" or "generally" passed them on to the campaign.<sup>86</sup> Haig further testified that he assumed that the time period discussed by the President included 1969 through 1971.<sup>87</sup>

In addition to this evidence concerning the contact with J. Paul Getty in early 1969, Rebozo was also having discussions at about the same time with Richard Danner about the possibility of a cash contribution from Howard Hughes. These discussions are covered more fully in a subsequent section of this report.

### C. DISBURSAL OF FUNDS

There is evidence indicating that Rebozo maintained a fund in Florida to pay for administration-connected costs. In a letter of April 28, 1969, from Rebozo to Kalmbach, Rebozo wrote in part:

Over the weekend, I spoke with John Ehrlichman and explained to him that it had been decided that the larger balance which I mentioned to you will be kept here in order to take care of frequent administration-connected costs which arise from time to time.<sup>88</sup>

<sup>77</sup> Information furnished by John Wilson, May 17, 1974.

<sup>78</sup> Edward L. Morgan interview, June 10, 1974, p. 1.

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.* Stuart confirmed the conversation with Morgan, but recalled that he thought the contributions should be made by check and not cash. (Stuart interview, June 20, 1974).

<sup>81</sup> *Ibid.*

<sup>82</sup> 21 *Hearings* 9975.

<sup>83</sup> *Ibid.*

<sup>84</sup> 21 *Hearings* 10181.

<sup>85</sup> *Ibid.*

<sup>86</sup> 23 *Hearings* 11017.

<sup>87</sup> 23 *Hearings* 11018.

<sup>88</sup> See letter from Rebozo to Kalmbach, dated Apr. 28, 1969, 26 *Hearings*, exhibit 16.

There is evidence indicating that the fund which Rebozo maintained in Florida consisted of campaign funds. Rebozo testified that he retained about \$6,000 from the 1968 campaign because the campaign owed him that amount for expenses that he had covered during the campaign.<sup>89</sup> On April 15, 1969, Rebozo set up the Wakefield special account with a deposit of \$6,000 from the "Florida Nixon for President Committee."<sup>90</sup> Thomas H. Wakefield testified that he did not know that this account was opened until later when Rebozo advised him that he had established the account, and that both individuals were signators.<sup>91</sup>

On April 15, 1969, Jack Caulfield wrote to Herbert Kalmbach a letter which said in part:

Listed below is a list of expenses incurred by myself and another individual who shall remain nameless with respect to matters of interest to J. D. E.<sup>92</sup>

Caulfield's bill totaled \$320, and he concluded:

I would appreciate a check in the amount indicated above to be mailed to my residence, 13 Carlton Road, Orangeburg, N.Y.<sup>93</sup>

On April 17, 1969, Kalmbach wrote a letter to John Ehrlichman, which said in part:

Confirming our conversation of a few minutes ago, I'm in the process of setting up one "trustee for clients" account at the Security Pacific National Bank's Newport Beach office here in the Newport Center. The initial deposit will be in the amount of \$216.18 which was received from Bebe this date. I will write checks to Jack Caulfield and whomever else you may authorize to receive payments at such time as I receive the additional funds.<sup>94</sup>

Rebozo also sent Kalmbach an additional check for \$200 on April 28, 1969, and a check from the Wakefield special account to Kalmbach for \$1,000 on July 17, 1969.<sup>95</sup> These funds were subsequently used by Herbert Kalmbach to pay the expenses and salary of Anthony T. Ulasewicz.<sup>96</sup>

There is conflicting testimony concerning whether or not Rebozo was aware of the purpose of the funds that he forwarded in 1969. Rebozo testified that he had advised Kalmbach after the 1968 election that he had leftover funds available and that subsequently Kalmbach requested some of the funds to be sent to him.<sup>97</sup> Rebozo testified that Kalmbach did not indicate nor did Rebozo ask what the purpose of the funds was.<sup>98</sup>

Kalmbach said that he was authorized by John Ehrlichman to contact Rebozo about obtaining leftover campaign funds to pay for Caulfield's expense statement submitted to Kalmbach.<sup>99</sup> Kalmbach tes-

<sup>89</sup> 21 *Hearings* 9946.

<sup>90</sup> 26 *Hearings*, exhibit 17.

<sup>91</sup> 24 *Hearings* 11297-98.

<sup>92</sup> 26 *Hearings*, exhibit 18. The reference to J.D.E. apparently refers to John Ehrlichman.

<sup>93</sup> *Ibid.*

<sup>94</sup> 26 *Hearings*, exhibit 19.

<sup>95</sup> 21 *Hearings* 10156 and 23 *Hearings* 10863.

<sup>96</sup> 23 *Hearings* 10860-61.

<sup>97</sup> 21 *Hearings* 9946.

<sup>98</sup> 21 *Hearings* 9947.

<sup>99</sup> Kalmbach interview, June 13, 1974.

tified that he then contacted Rebozo to obtain funds to pay for the expenses of Caulfield and Ulasewicz.<sup>1</sup> Kalmbach testified that he discussed the nature of the activities of Caulfield and Ulasewicz with Rebozo, and that Rebozo specifically knew that the money was for Caulfield and Ulasewicz.<sup>2</sup>

Kalmbach's notes also indicate that he called Rebozo during the week of July 14, 1969, and that they discussed the payment to Ulasewicz as well as the payment of his expenses.<sup>3</sup>

However, Rebozo testified that he was not aware of the purpose of the funds that he forwarded to Kalmbach.<sup>4</sup>

Rebozo also used funds to pay for personal expenses for President Nixon from 1969 through 1973. These expense items are more fully explained later in this report.

Finally, Larry Higby, formerly H. R. Haldeman's administrative assistant, testified that on or about April 30, 1973, at about the time of Haldeman's resignation:

\* \* \* Mr. Haldeman told me that during one of the discussions he had with the President at the time of, or immediately after his resignation, the President indicated that Mr. Rebozo did have some funds that could be made available to Mr. Haldeman; and as I understand it, also to Mr. Ehrlichman for the purpose of assisting in a legal defense.<sup>5</sup>

Higby also testified that Haldeman advised him that Rebozo had somewhere "in the neighborhood of \$400,000 available to assist on legal fees."<sup>6</sup> Higby testified that he had confirmed the substance of his testimony 2 weeks earlier in a telephone conversation with Haldeman.<sup>7</sup>

#### D. ACTING AGENT FOR PRESIDENT NIXON AT KEY BISCAYNE

On the day following President Nixon's inauguration in 1969, Thomas H. Wakefield testified that he met with the President and Bebe Rebozo at a White House staff reception.<sup>8</sup> Wakefield testified that at this meeting with President Nixon and Rebozo, Wakefield was given instructions concerning matters which resulted in expenditures incurred on behalf of President Nixon.<sup>9</sup> Wakefield refused to discuss these instructions, claiming they were protected by the attorney-client privilege. Wakefield also testified that this meeting with President Nixon and Rebozo was the first occasion when Wakefield was informed by the President that henceforth Rebozo would act as the President's agent for matters that Wakefield refused to describe.<sup>10</sup>

Wakefield also testified that he attended a second meeting at the White House with John Ehrlichman and Bebe Rebozo either later the same day or the following day after Wakefield's meeting with President Nixon.<sup>11</sup> Wakefield again refused to disclose the substance

<sup>1</sup> 23 *Hearings* 10860.

<sup>2</sup> *Ibid.*

<sup>3</sup> 26 *Hearings*, exhibit 20; see also 23 *Hearings* 10860-61.

<sup>4</sup> 21 *Hearings* 9948.

<sup>5</sup> 23 *Hearings* 11074.

<sup>6</sup> 23 *Hearings* 11082.

<sup>7</sup> *Ibid.*

<sup>8</sup> 24 *Hearings* 11333-34. Wakefield refused to answer a number of questions about his conversations with President Nixon and Charles G. Rebozo because of the attorney-client privilege Wakefield asserted with respect to both individuals.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> Wakefield interview, June 24, 1974, p. 5.

of this conversation on the grounds of attorney-client privilege and because "Mr. Rebozo was designated as agent in the beginning of the conversation by Mr. Ehrlichman."<sup>12</sup> Wakefield stated that some action was taken as a result of his meeting with Ehrlichman and Rebozo, but Wakefield declined to describe what occurred because of his attorney-client relationship with the President.<sup>13</sup> As will be described more fully in a section below, certain \$100 bills were deposited among trust accounts held by Thomas H. Wakefield, and were applied for expenditures on behalf of the President's Key Biscayne homes at the instructions of Bebe Rebozo.<sup>14</sup>

In addition, Richard Danner's diary entry of November 21, 1968, reflects: "L. D. from C. G. R. Miami RE: house project."<sup>15</sup> Danner testified that this notation reflected a telephone call with Rebozo, but that Danner had "no recollection whatsoever of what house project had to do with that conversation."<sup>16</sup> Danner did recall his friend former Senator George Smathers telling him that Smathers was going to sell his house to President Nixon following the 1968 election, but Danner had no recollection of discussing this sale with Bebe Rebozo.<sup>17</sup>

Therefore, at the time in early 1969 when Rebozo and Danner again began to discuss a contribution from Howard Hughes, there is evidence indicating: Rebozo was already raising funds at the direction of the President; Rebozo was disbursing money from campaign funds for various administration projects; and Rebozo was acting as agent for President Nixon with respect to the purchase and maintenance of his Key Biscayne homes.

## V. DELIVERY AND RETENTION OF THE CONTRIBUTIONS

### INTRODUCTION AND SUMMARY OF FACTS

The contributions that were finally delivered to Rebozo were the culmination of the attempted deliveries during 1968 described earlier. A contribution was discussed during the 1968 election and continued to be an item of discussion thereafter among various parties, including Hughes, Maheu, Danner, and Rebozo. The discussions were intense in early December 1968, and continued into the spring and summer of 1969, when Rebozo chided Danner about Hughes' generous support of Democrats and less sizable support of President Nixon and Maheu authorized a contribution to Rebozo.

The testimony on the deliveries of the money is voluminous and often contradictory, and Danner, Maheu, and Rebozo maintained few written records of the transaction. Rebozo testified that the money he received from Danner remained unused in a safe deposit box from its delivery to him—in two installments—until he returned it to agents of Hughes in June 1973. That testimony has been challenged by other testimony and evidence before the Select Committee.

The available testimony and evidence point to the following facts:

<sup>12</sup> 24 *Hearings* 11302.

<sup>13</sup> Wakfield interview, June 24, 1974, p. 5.

<sup>14</sup> See section on Use of the Money.

<sup>15</sup> 26 *Hearings*, exhibit 14.

<sup>16</sup> 24 *Hearings* 11425.

<sup>17</sup> 24 *Hearings* 11426.



1. The money for one of the deliveries to Rebozo was put together in early December 1968.

- There is considerable testimony from various principals indicating that the first delivery consisted of money made available in December 1968, and that it was maintained whole until the ultimate delivery.
- In early December 1968, Robert Maheu and others acting on behalf of Howard Hughes were deeply involved in attempts to make a Hughes to Nixon contribution.
- Robert Maheu received \$100,000 in cash in early December, \$50,000 of which he tried to deliver to President-elect Nixon or one of his aides at Palm Springs, pursuant to negotiations commenced earlier in the year by Rebozo and Danner.
- Danner was in Las Vegas during this December 1968 period talking about joining the Hughes organization and, according to one of Danner's recollections, discussing political contributions with Maheu.
- Fifty consecutively numbered \$100 bills among those Rebozo identified as the first delivery were, according to Federal Reserve Board records and other documentary evidence, delivered to the Las Vegas bank used by Hughes casinos during this early December 1968 period.

2. The first delivery took place in 1969.

- In their initial interviews and testimony, the principals involved in the deliveries agreed that 1969 was the year of the first delivery. Maheu has continued to subscribe to that statement; Danner changed his testimony after consultation with Rebozo; and Rebozo changed from 1969 (in his first interview with the IRS) to 1970 (in subsequent testimony) as the year of the first delivery.

3. The first delivery to Rebozo occurred September 11 or 12, 1969, in Key Biscayne, Fla.

- When Danner joined the Hughes organization in February 1969, there was an ongoing concern that the money be delivered soon.
- According to Danner, in the spring of 1969, he and Maheu noted that the 1968 money was still intact and available for Rebozo, and Danner told Rebozo that it was available. Not long before September 11–12, Maheu authorized a delivery to Rebozo.
- Robert Maheu has stated the first delivery took place in 1969.
- Danner's first statement regarding this contribution substantially comports with Maheu's recollection of the first delivery.
- Danner's testimony, until changed in July 1973, after consultation with Rebozo, was that the first delivery was in September 1969.

4. There is considerable evidence suggesting that the second delivery took place on July 3, 1970, or August 19–20, 1970, and there is some evidence of a delivery on October 28–30, 1970.

- July 3, 1970—According to Rebozo and Danner, this was the date of a delivery at San Clemente. Both men have always contended that one of the two deliveries was at San Clemente, and Danner

testified this is the only time he was there. Only Rebozo testified firmly that this was the first delivery. Maheu stated that both deliveries were at Key Biscayne.

- August 19–20, 1970—If the first delivery were on July 3, the second delivery would have been either August 19–20 or October 28–30. Danner and Maheu discounted the October date as too close to the 1970 election for the money to have been used for congressional campaigns.

Rebozo testified that the second delivery was in Key Biscayne, following the July 3, 1970, delivery within a “matter of weeks \* \* \* [it] could have been 3 months \* \* \* I don’t know. I think I saw somewhere where Danner had indicated it was in August and that would be correct.”

- October 28–30, 1970—The strongest evidence supporting this late 1970 date is the statement of Thomas Bell, a Hughes lawyer, that he gave \$50,000 to Danner on October 26. Danner testified that he did not receive money from Bell, however, and Danner and Robert Maheu doubted a delivery so close to the 1970 congressional election.

5. There is evidence suggesting that there may have been more than two deliveries from Danner to Rebozo.

- The only way much of the conflicting testimony can be reconciled is to conclude there were more than two deliveries of funds.
- There are four likely delivery dates: September 11–12, 1969; July 3, 1970; August 19–20, 1970; and October 28–30, 1970.
- Four packets of money have been identified as possible sources of the deliveries: Early December 1968 (Sands Casino); December 5, 1968 (Nadine Henley); July 11, 1969 (Nadine Henley); and October 26, 1970 (Thomas Bell—Silver Slipper).

6. Documentary evidence from the Federal Reserve raises a question whether Rebozo maintained the two deliveries intact (see below).

The following summary paragraphs should help the reader understand the detailed information that follows:

Section A sets forth the testimony and statements of the principals. There are numerous contradictions among the principals, and most of them have contradicted themselves on key points.

Section B is an analysis of the possible sources of the contributions to Rebozo. Determining when and where the money for the two deliveries was put together is directly related to an examination of Rebozo’s testimony that the money he received from Hughes was the same money he returned to Hughes in June 1973. The Hughes people involved in assembling the money for delivery to Rebozo, notably Robert Maheu, have stated that the money

for each delivery remained intact from the time it was assembled until the dates of delivery to Rebozo by Richard Danner, Hughes' agent. The Select Committee attempted to determine the accuracy of that assertion, and it found no contradictory evidence or testimony. In contrast, Rebozo's testimony that he did not disturb or use the money has been challenged by testimony and evidence received by the Select Committee.

The available evidence suggests that \$50,000 for one of the deliveries was obtained in early 1968. In the money returned and identified as the Hughes contribution<sup>18</sup> are numerous \$100 bills—in the package identified as the first delivery and in the package identified as the second delivery—that were not available for commercial circulation until after early December 1968. Therefore, either the money was not kept intact from time of origin in December 1968 until its delivery to Rebozo, or it was not kept intact by Rebozo between its receipt and its return.

Section C analyzes the possible delivery dates and reaches the conclusions summarized above.

Section D analyzes the testimony and evidence relating to the storage of the Hughes contributions by Rebozo.

Section E compares the testimony and evidence relating to possible combinations of sources and delivery dates with the available Federal Reserve records. The comparison raises a question whether the money Rebozo returned was the same money he received.

For all possible combinations of delivery dates save one, there are \$100 bills in the money returned and identified as the Hughes contribution that were not available for commercial circulation until after one or both delivery dates. For example, if the first delivery was on July 3, 1970, in San Clemente, and the second on August 19-20, 1970, in Key Biscayne—a probable combination, according to testimony by Danner and Rebozo—there are 35 bills in the money returned and identified as the second delivery that were not available for commercial circulation until after August 20, 1970. Those 35 bills, therefore, could not have been delivered to Rebozo on August 19-20, but instead would have been inserted into the package identified as the second delivery at some later date before Rebozo returned the money. The latest date of commercial distribution is October 1, 1970, when a 1969 series \$100 bill, serial No. GO2-134-916 A, was released to the Lakeview Trust & Savings Bank of Chicago by the Chicago Federal Reserve Bank. The 35 bills are as follows:

<sup>18</sup> The serial numbers which the Select Committee and the Federal Reserve System have been tracing are those of the 1,001 Federal Reserve notes Rebozo returned. While the contribution is generally referred to as a \$100,000 contribution, Rebozo returned \$100,100. How and when the extra note got into the money is an unresolved question. The committee has no evidence that a list of serial numbers was prepared when the money was put together or when it was delivered.

FEDERAL RESERVE NOTES (IDENTIFIED AS PART OF 2D DELIVERY TO REBOZO) NOT AVAILABLE FOR COMMERCIAL DISTRIBUTION UNTIL AFTER AUG. 19-20, 1970<sup>1</sup>

Series	Serial	Date released to cash department, Federal Reserve Bank	Date released to commercial bank
1969.....	G02 134 916 A	Sept. 8, 1970 (Chicago).....	Oct. 1, 1970 (Lakeview Trust, Chicago).
1969.....	L02 012 307 A	Sept. 3, 1970 (Los Angeles).....	Sept. 23, 1970 (New National Bank, Las Vegas, 4th and Bridger).
1969.....	B00 745 268 A	Sept. 21, 1970 (New York).....	
1969.....	L02 044 519 A	Sept. 3, 1970 (Los Angeles).....	Sept. 16, 1970 (New National Bank, Las Vegas, 4th and Bridger).
1969.....	L03 169 610 A	Sept. 11, 1970 (Los Angeles).....	Sept. 14, 1970 (New National Bank, La Vegas, 4th and Bridger).
1969.....	L03 201 320 A	do.....	Do.
1969.....	L03 169 914 A	do.....	
1969.....	L03 169 915 A	do.....	
1969.....	L03 170 246 A	do.....	
1969.....	L03 170 247 A	do.....	
1969.....	L03 171 517 A	do.....	
1969.....	L03 171 653 A	do.....	
1969.....	L03 201 337 A	do.....	Do.
1969.....	L03 202 841 A	do.....	
1963A.....	H00 933 849 A	Sept. 8, 1970 (St. Louis).....	
1963A.....	L03 567 973 A	Sept. 3, 1970 (Los Angeles).....	
1963A.....	L03 567 972 A	do.....	
1969.....	L01 996 101 A	do.....	
1969.....	L01 997 818 A	do.....	
1969.....	L01 997 820 A	do.....	
1969.....	L01 998 739 A	do.....	
1969.....	L02 006 342 A	do.....	
1969.....	L02 011 839 A	do.....	
1969.....	L02 013 297 A	do.....	
1969.....	L02 036 812 A	do.....	
1969.....	L02 038 013 A	do.....	
1969.....	L02 039 302 A	do.....	
1969.....	L02 039 303 A	do.....	
1969.....	L02 047 193 A	do.....	
1969.....	L01 998 424 A	do.....	
1969.....	K00 853 653 A	Aug. 5, 1970 (Dallas).....	Sept. 2, 1970 (Northwest National Bank, Dallas).
1963A.....	L03 778 452 A	June 9, 1970 (Los Angeles).....	Sept. 2, 1970 (Valley National Bank, Las Vegas).
1963A.....	L03 778 219 A	do.....	Do.
1969.....	L01 455 291 A	Aug. 27, 1970 (Los Angeles).....	
1969.....	L01 447 735 A	do.....	

<sup>1</sup> For some of the notes listed below, records exist showing dates of distribution to commercial banks. For other bills, however, records exist only through the date of release to a Federal Reserve Bank's Cash Department. The dates of commercial release for those notes would be on or after the dates of release to cash departments.

It is possible that the second delivery was not made until late October 1970 (as discussed in section V.C.), in which case the Federal Reserve evidence does not contradict Rebozo's testimony. The October date, however, is less probable than several other dates, as explained in section V.C.

#### A. TESTIMONY AND STATEMENTS OF THE PRINCIPALS

The testimony and statements by the key participants concerning the deliveries of the Hughes \$100,000 do not conform in many key respects. Most of the people involved have changed their testimony and statements as the investigation progressed. The only consistent assertion of all principals has been that there were only two deliveries.

When initially questioned about the deliveries, the various parties—Robert Maheu, Peter Maheu, Danner, and Rebozo—placed the date of the first delivery within about 1 year of the November 1968 election.<sup>10</sup> As the investigation intensified, from about the time Rebozo

<sup>10</sup> Citations for the statements made by the various parties are in the lengthier discussions below.

returned the money in June 1973,<sup>20</sup> the parties began recalling later delivery dates. Other differences in testimony have occurred, including significant changes regarding locations of deliveries and number of people present. For example, Robert Maheu has stated that he was present at a delivery in Key Biscayne. Danner initially so testified, but later, after talking with Rebozo, changed his testimony to agree with Rebozo's testimony that Maheu was not present.

Testimony about the Hughes-Rebozo contribution has been extensive and varied. In addition to the staff interviews and sworn testimony in sessions before the Select Committee, testimony concerning the contribution can be found in the *Maheu v. Hughes Tool Co.* civil litigation;<sup>21</sup> the interviews and depositions relating to the Securities and Exchange Commission's investigation of the acquisition of Air West by Hughes;<sup>22</sup> and the interviews and affidavits furnished to the Select Committee by the Internal Revenue Service, pursuant to a Senate resolution.<sup>23</sup>

The following summary is not exhaustive and must be read in conjunction with the later sections of the report analyzing the contribution.

#### 1. RICHARD DANNER

In February 1969, Richard Danner commenced his employment with Hughes Tool Co. as general manager of the Frontier Hotel.<sup>24</sup> His responsibilities also called for him to serve as liaison for the Hughes entities and the Nixon administration.<sup>25</sup> According to Robert Maheu, Hughes was especially pleased that Danner joined the Hughes operation inasmuch as the 1968 campaign contribution still remained undelivered, and Danner, with his connections with Rebozo, could readily remedy this problem.<sup>26</sup>

While Danner's recollection has been unclear about the dates of deliveries, who was present and who provided the money to him, he testified with certainty about the circumstances leading up to the decision to make the \$100,000 in cash available to Rebozo.

Danner testified that, in the spring of 1969, he had frequent contacts with Rebozo during which Rebozo was "needling" <sup>27</sup> him about Hughes' apparent favoritism toward the Democrats by making a large contribution available to then-Vice President Humphrey in 1968, by having Larry O'Brien on retainer, and by employing Senator Humphrey's son.<sup>28</sup> Danner testified that he brought Rebozo's comments to Maheu's attention and that shortly thereafter Peter Maheu, Robert's son, showed Danner cancelled checks reflecting payments to various Nixon-Agnew committees during the 1968 campaign.<sup>29</sup> Danner testified that he related that information to Rebozo and "he [Rebozo] still felt that that was not comparable to what they had done for Humphrey."<sup>30</sup>

<sup>20</sup> The return of the money is described in section VIII below.

<sup>21</sup> *Robert A. Maheu v. Hughes Tool Co.*, Civil No. 72-305 HP, U.S. District Court for the Central District of California.

<sup>22</sup> Securities and Exchange Commission, Case No. HO596; information from the Commission was furnished to the Select Committee pursuant to a letter of disclosure. William Turner, a lawyer with the SEC, was particularly helpful.

<sup>23</sup> See Senate Resolution 288, 93d Congress, 2d session.

<sup>24</sup> 20 *Hearings* 9511.

<sup>25</sup> Robert A. Maheu interview, Jan. 20, 1974.

<sup>26</sup> *Ibid.*

<sup>27</sup> 20 *Hearings* 9512.

<sup>28</sup> 20 *Hearings* 9529-30.

<sup>29</sup> 20 *Hearings* 9501.

<sup>30</sup> 20 *Hearings* 9512.

Danner then told Rebozo that the \$50,000 undelivered at Palm Springs was still intact and available.<sup>31</sup> According to Danner's testimony, Rebozo declined the offer.<sup>32</sup> The contribution came up a short time later, in May or June 1969, when Danner testified that Rebozo raised the "question of whether Mr. Hughes would contribute to funds to begin taking polls on candidates for the 1970 congressional elections . . ." <sup>33</sup> According to Danner, he then discussed this matter with Maheu, who said that the undelivered \$50,000 was available and that an additional \$50,000 could be committed.<sup>34</sup>

Danner's only other consistent testimony has been that there were only two deliveries, one at San Clemente and one at Key Biscayne.

Danner testified that Robert Maheu told him the money for the first delivery was in the safe-deposit box at the Frontier Hotel.<sup>35</sup> It was either brought to Danner by Peter or Robert Maheu, or Danner picked it up himself from the safe-deposit box.<sup>36</sup> He did not count the bills upon receipt but did note that they were bundled in packages of \$5,000 each.<sup>37</sup>

In a transcribed question-and-answer session with the IRS on May 15, 1972, the first time he was questioned on the \$100,000, Danner stated that the first delivery took place at Key Biscayne in the late summer of 1969, where Robert Maheu handed the package to Rebozo, and that the second delivery was at San Clemente at an unspecified later date.<sup>38</sup>

According to a contemporaneous memorandum, he told an IRS agent on November 29, 1972 (in a telephone conversation) that the first delivery in Key Biscayne was in September 1969, and the second delivery in San Clemente on July 3, 1970.<sup>39</sup>

In a July 5, 1973, affidavit filed with the IRS as a correction to his May 15, 1972, questioning, Danner changed his prior statement. He said he was certain that the first contribution, not the second, took place on July 3, 1973, at San Clemente, with only Rebozo and Danner present, and that the second contribution was made in Key Biscayne on August 19-20, 1970,<sup>40</sup> again with only Rebozo and Danner present.

He stated to the Select Committee that he had been to the Western White House at San Clemente only once, which his travel records show to be on July 3, 1970.<sup>41</sup> Danner testified that he met with the President and Rose Woods after the delivery to Rebozo at San Clemente. His discussion with the President, Danner testified, focused on "the problems at the White House getting entertainment . . . suitable for young audiences and so on . . ." <sup>42</sup> and that there was no mention of the contribution.<sup>43</sup> In his discussion with Rose Mary Woods, Danner testified that there was no talk about the purpose of Danner's visit.<sup>44</sup> Woods

<sup>31</sup> According to Danner, Maheu said "They can have that if they want it." 20 *Hearings* 9513.

<sup>32</sup> *Ibid.*

<sup>33</sup> 20 *Hearings* 9515.

<sup>34</sup> 20 *Hearings* 9516.

<sup>35</sup> 20 *Hearings* 9533.

<sup>36</sup> Danner has testified that, with regard to both contributions, he is uncertain who delivered the money to him, noting that either \$50,000 package could have come from either Robert or Peter Maheu. 24 *Hearings* 11467. He has also testified that Thomas Bell did not deliver either package to him. 24 *Hearings* 11466.

<sup>37</sup> 20 *Hearings* 9534.

<sup>38</sup> 20 *Hearings* 9534.

<sup>39</sup> Interview of Richard Danner by IRS, Nov. 29, 1972.

<sup>40</sup> Affidavit of Richard Danner, July 5, 1973.

<sup>41</sup> 20 *Hearings* 9538. Danner travel records, 26 *Hearings*, exhibit 21.

<sup>42</sup> 20 *Hearings* 9538.

<sup>43</sup> 20 *Hearings* 9539.

<sup>44</sup> *Ibid.*

had no recollection of meeting Danner in July 1970 and said, in a staff interview, that "I would not know Danner if he walked in."<sup>45</sup>

Danner testified that he was unable to explain why the first delivery would not have been made until the summer of 1970, rather than in the fall of 1969, shortly after the spring 1969 Rebozo-Danner discussions of a possible contribution and Maheu's authorization of the delivery.<sup>46</sup>

## 2. ROBERT A. MAHEU

In his statements and testimony about the two \$50,000 contributions, Robert Maheu has provided conflicting information about sources of the money and delivery dates.

*First \$50,000:* When Danner joined the Hughes organization there were on-going discussions between Hughes and Maheu about the uncompleted 1968 contribution. Maheu suggested Danner as the courier for the funds, and Hughes agreed.<sup>47</sup>

Maheu has provided conflicting statements on the origin of the money. In September 1971, Maheu told the IRS that the first \$50,000 came from the cashier's cage at the Sands Hotel in early December 1968.<sup>48</sup> In a 1973 IRS interview, Maheu said the money consisted of the same bills he received from Nadine Henley on December 5 and 6, 1968, and turned over to Peter Maheu upon his return from the Palm Springs Governors' Conference.<sup>49</sup> In a later interview with Select Committee staff, he said that he received the money for the first delivery from Henley on July 11, 1969.<sup>50</sup>

As to the first delivery, in a 1973 civil deposition Maheu testified that: "Mr. Danner made the first delivery which would have been sometime in, to the best of my recollection, sometime in 1969."<sup>51</sup> Maheu told Select Committee investigators that the delivery was made shortly after Danner joined the Hughes corporation, which was in February 1969.<sup>52</sup> Later in the same interview, Maheu stated that the first delivery must have been sometime after July 11, 1969, the date on which Henley sent him \$50,000.<sup>53</sup>

Similarly, Maheu has expressed uncertainty about the mechanics of the first transaction, recalling only that it was his son, Peter, who transmitted the money to Danner some time after the early December 1968 Palm Springs Governors' Conference.<sup>54</sup>

Maheu testified in a civil deposition that Key Biscayne was the place of the first delivery, recalling that Danner and he had flown together on the DeHavilland to Miami to make the first delivery.<sup>55</sup>

According to Maheu, the purpose of the first delivery was to fulfill the pledge that had been made to the Nixon campaign in 1968. He stated that both he and Hughes were concerned that they not appear to be reneging on their commitments.<sup>56</sup>

<sup>45</sup> 22 *Hearings* 10271.

<sup>46</sup> 20 *Hearings* 9533.

<sup>47</sup> Robert Maheu interview, Jan. 20, 1974.

<sup>48</sup> Interview of Robert A. Maheu by the IRS, Sept. 21, 1971. See later section for a discussion of this possible source.

<sup>49</sup> Robert Maheu IRS interview, Sept. 19, 1973. See p. 958 below for a discussion of this source.

<sup>50</sup> Robert Maheu Select Committee staff interview, Jan. 28, 1974. See p. 958 below for a discussion of this source.

<sup>51</sup> Robert Maheu civil deposition, July 4, 1973, p. 1037.

<sup>52</sup> Robert Maheu interview, Jan. 20, 1974.

<sup>53</sup> *Ibid.*

<sup>54</sup> Robert Maheu civil deposition, July 4, 1973, p. 1096.

<sup>55</sup> Robert Maheu civil deposition, July 4, 1973, p. 1076. For a discussion of the contribution during the 1968 campaign, see p. 933, *supra*.

<sup>56</sup> Robert Maheu interview, Jan. 20, 1974.

*Second \$50,000:* Maheu has given different dates and different reasons for this delivery. He is, however, certain that he was present when an envelope filled with cash was passed to Rebozo in Key Biscayne.

Maheu first told the committee staff he was contacted by Bob Hope concerning a possible contribution of \$50,000 to \$100,000 to the Eisenhower Hospital. Maheu discussed it with Hughes, and Hughes suggested that Maheu contribute \$10,000 to the hospital and, at the same time, pledge to the Nixon administration that Hughes would make additional contributions to the congressional races. Hughes felt that through that arrangement he would get more mileage out of the administration.<sup>57</sup>

In his July 4, 1973, deposition, where he first publicly discussed Hughes' political contributions, Maheu noted that the decision to make the contribution was based on conversations with Danner, who told Maheu of the political necessity of the contribution, rather than on Hughes' instructions relative to Maheu's conversation with Bob Hope.<sup>58</sup>

In a civil deposition, Maheu testified that the money was transmitted to Danner by Thomas Bell, a Hughes lawyer in Las Vegas in early 1970.<sup>59</sup> Later, in a Select Committee staff interview, he said Bell delivered it to Danner in the summer of 1970.<sup>60</sup> In his second staff interview, he said that he had testified under oath to a Federal grand jury investigating Hughes' acquisition of Air West that the delivery to Rebozo was made by Danner and him on February 3-5, 1970, in Key Biscayne.<sup>61</sup>

Finally, in that same interview, he stated that Thomas Bell's testimony that the money was taken from the Silver Slipper on October 26, 1970, plus the trip he and Danner took to Florida about that time, led him to believe that the money could have been delivered in late October 1970.<sup>62</sup>

The second delivery, according to Maheu, occurred at Rebozo's home in Key Biscayne. Maheu saw the envelope pass from Danner to Rebozo, who opened it but did not count the money. Rebozo then took the envelope, went into another room, and returned in a short time without the envelope. The only conversation was something by Danner to the effect of "here's the second 50." No one else was present and the three immediately left in Rebozo's car to go out for dinner.<sup>63</sup>

### 3. PETER R. MAHEU

Peter Maheu has stated that he transmitted one \$50,000 packet to Richard Danner. Robert Maheu, Peter's father, has testified he instructed him to do so,<sup>64</sup> and Richard Danner has testified that he possibly received money from Peter Maheu.<sup>65</sup>

<sup>57</sup> *Ibid.*

<sup>58</sup> Robert A. Maheu civil deposition, July 4, 1973 vol. XII, pp. 1025-27. See the discussion of the Dunes, p. 980 below, for a more detailed discussion of what Maheu understood the political necessity of the contribution to be.

<sup>59</sup> Robert Maheu civil deposition, July 4, 1973, p. 1026.

<sup>60</sup> Robert Maheu interview, Sept. 15, 1973, p. 15.

<sup>61</sup> Robert Maheu interview, Jan. 20, 1974.

<sup>62</sup> *Ibid.*

<sup>63</sup> *Ibid.*

<sup>64</sup> Robert A. Maheu civil deposition, July 4, 1973, p. 1096. As noted in the sections detailing Robert Maheu's testimony, there is conflict concerning when Peter Maheu received this money from his father.

<sup>65</sup> Richard Danner civil deposition, Sept. 4, 1973, p. 48. Danner's recollection is not clear on the event.



Peter Maheu recalled that he received the money at his father's house in 1969 from his father, who asked Peter to take it because Robert Maheu's safe was not working at the time. Peter Maheu stated that the money was wrapped in packets of 50 bills with a standard bank wrapper around each packet and that the bills were not new.<sup>66</sup>

Peter Maheu only recalled his father saying "something to the effect that the money was for political contributions, and to place it in my safe and disburse it at his direction."<sup>67</sup> Peter Maheu stated that the source of the money was the Silver Slipper Casino in Las Vegas, which Hughes owned in his own name and used for political contributions.<sup>68</sup>

Peter Maheu took the money home, removed it from the envelope, and put it in his safe.<sup>69</sup> He kept the money for a short period of time, perhaps 3 weeks,<sup>70</sup> at which time his father instructed him to deliver it to Danner, explaining, as Peter remembered it, that "Danner was bringing the money to Mr. Rebozo. Mr. Rebozo was going to give the money to Mr. Nixon."<sup>71</sup> Peter then took the money to Danner at the Frontier Hotel. According to Peter, his meeting with Danner was "extremely short," and he just "dropped off the money \* \* \* ." He may have told Danner to "have a good trip."<sup>72</sup> Peter Maheu was confident that Danner went to Florida to deliver the money<sup>73</sup> and was sure that his father did not accompany Danner on that trip.<sup>74</sup>

Finally, Peter Maheu (in his staff interview) stated that someone in his father's office gave him a typed sheet of paper to be signed by Richard Nixon acknowledging Nixon's receipt of \$100,000 from Hughes.<sup>75</sup> Danner told Peter Maheu that Nixon will "never sign it."<sup>76</sup> and Maheu has been unable to find the document.

#### 4. THOMAS G. BELL

According to Robert Maheu,<sup>77</sup> the second \$50,000 contribution was transmitted to Richard Danner by Thomas Bell, a Hughes attorney in Las Vegas. In a Select Committee staff interview, Bell stated that he was involved in only one delivery of money to Richard Danner, \$50,000 delivered at the direction of Robert Maheu in October of 1970.<sup>78</sup> Bell reasoned that this time was a delivery date by examining the Silver Slipper disbursement forms and noting that he delivered the money in one lump sum just prior to the congressional election of 1970. Since he never had as much as \$50,000 in a lump sum other than on October 26, 1970, when he withdrew \$115,000 from the Silver Slipper, he stated that this withdrawal was the source of the money for Danner.<sup>79</sup>

On the date of withdrawal, he received a call from Robert Maheu, who, with a great sense of urgency, said that Hughes wanted the money

<sup>66</sup> Peter Maheu interview, Nov. 29, 1973, p. 5.

<sup>67</sup> Peter Maheu, civil deposition, Mar. 29, 1973, p. 72.

<sup>68</sup> *Id.* at p. 74.

<sup>69</sup> Peter Maheu interview, Dec. 4, 1973, p. 5.

<sup>70</sup> *Ibid.*

<sup>71</sup> Peter Maheu civil deposition, Mar. 29, 1973, p. 77.

<sup>72</sup> *Ibid.*

<sup>73</sup> *Id.* at p. 80.

<sup>74</sup> Peter Maheu interview, Dec. 4, 1973, p. 6.

<sup>75</sup> Peter Maheu interview, Dec. 4, 1973, pp. 7-8. The document was an undated and unsigned white sheet of paper 8½" × 5½", according to Maheu.

<sup>76</sup> *Ibid.*

<sup>77</sup> Civil deposition of Robert A. Maheu, July 4, 1973, pp. 1025-1027.

<sup>78</sup> Thomas Bell interview, Dec. 17, 1973, p. 7.

<sup>79</sup> *Ibid.*

delivered to Danner.<sup>80</sup> Bell went to the Silver Slipper, got the money, and immediately delivered it to Danner in Danner's office at the Frontier Hotel. Bell recalled no conversation with Danner. Bell stated that the same day, or early on the next day, he made a local call to Maheu to announce that the money had been delivered.<sup>81</sup>

Bell said there were 10 packages of \$100 bills, totaling \$50,000, and that most of the bills were fairly new and crisp. He is not certain whether the money was wrapped at a Las Vegas bank or at the Silver Slipper, but he was certain that the wrappers were initialed and dated.<sup>82</sup>

##### 5. CHARLES G. REBOZO

Charles Rebozo testified that he had no official fundraising responsibilities with regard to the 1972 Presidential campaign when he began to discuss the Hughes contribution with Richard Danner in 1969,<sup>83</sup> but that nonetheless, Rebozo stated to the committee that the \$100,000 contribution from Hughes was received on behalf of the 1972 Nixon reelection campaign.<sup>84</sup>

Rebozo's first discussion of the two contributions with a governmental agency took place May 10, 1973, when, according to an IRS memorandum of the interview, he stated that:

\* \* \* he received the money on two separate occasions—each in the amount of \$50,000. That he could not recall whether he received the first package in Key Biscayne or California, but that he had received one package in each location. The California location was San Clemente. We attempted to zero in on the dates that he received the money. To his best recollection, it was late 1968 or early 1969 and that there were 2 or 3 months between each delivery.

Mr. Rebozo said he had been approached by Danner in the fall of 1968 before the election about a political contribution to Nixon. Rebozo had refused it because he did not think it would be proper. After the election, he was approached again by Danner about the contribution. Rebozo could not remember whether he approached Danner or Danner approached him. As far as Rebozo is concerned, the money was for President Nixon's 1972 campaign. Mr. Rebozo was asked if it could have been for senatorial or congressional campaigns in 1970. Rebozo stated not as far as he was concerned. What was in Danner's or Maheu's minds, Rebozo did not know.<sup>85</sup>

Rebozo testified before the Select Committee that, after the 1968 election, Danner occasionally visited Rebozo in Florida and brought up the subject of a Hughes contribution to President Nixon.<sup>86</sup> During these conversations, Rebozo testified, he asked Danner why Hughes

<sup>80</sup> *Ibid.*

<sup>81</sup> *Id.* at p. 8.

<sup>82</sup> *Ibid.*

<sup>83</sup> 21 *Hearings* 9974.

<sup>84</sup> 21 *Hearings* 9955. In addition to Rebozo's receipt of \$100,000, which he claims was for the 1972 Nixon campaign, records indicate that Hughes contributed \$150,000 to the 1972 Nixon campaign, \$50,000 of which appeared on the pre-April 7, 1972, list of contributors kept by Rose Mary Woods. The remainder was contributed after April 7, and duly recorded.

<sup>85</sup> Interview of Charles G. Rebozo by IRS, May 10, 1973.

<sup>86</sup> 21 *Hearings* 9952-53.

had hired Larry O'Brien and placed Hubert Humphrey's son on the payroll if Hughes were genuinely interested in supporting President Nixon.<sup>87</sup>

Rebozo testified that Danner approached him on four or five occasions in 1969 to offer the contribution,<sup>88</sup> which, Danner later told Rebozo, was the same money earmarked for the 1968 campaign.<sup>89</sup> Rebozo remembered one instance when Danner appeared at Key Biscayne with \$50,000, but Rebozo refused to accept it.<sup>90</sup> Rebozo had no recollection of discussing with Danner using the contribution for polling purposes in the 1970 congressional elections.<sup>91</sup>

*First \$50,000 contribution:* Rebozo testified that, after a number of conversations with Danner in 1969, Rebozo finally agreed to accept the contribution. His rationale was that:

Danner then had been working for Hughes a couple of years or so. I had come to know Maheu, whom I didn't know when he first offered the money. Morgan was seemingly out of the picture, and I began to get a little confidence in the fact that maybe this money could be utilized, and it wouldn't present any embarrassing problems. So it was somewhere after he had been with them for some time they agreed to take it.<sup>92</sup>

After agreeing to accept the money, and shortly before the delivery, Rebozo testified that he talked with Danner, who said he would come to Miami to make the delivery. Rebozo responded that he was "going to be in California next week, and that would save [Danner] a trip."<sup>93</sup> Rebozo also recalled Danner saying at about the time of the first delivery that there would be more than \$50,000 contributed, but he did not recall whether Danner mentioned a specific amount.<sup>94</sup>

Although he initially told the IRS that he was not sure where the first delivery was made,<sup>95</sup> Rebozo later testified that the first contribution took place July 3, 1970, at San Clemente,<sup>96</sup> a conclusion he reached after checking hotel and airline records<sup>97</sup> and talking with Danner.<sup>98</sup>

Rebozo testified that he and Danner met alone at San Clemente and that during this meeting, Danner gave him a manila envelope containing \$50,000.<sup>99</sup> Rebozo took the envelope and put it in his bag.<sup>1</sup> He has no recollection of what occurred next, but he and Danner may have visited briefly with the President<sup>2</sup> or Rose Mary Woods.<sup>3</sup>

*Second \$50,000 delivery:* Rebozo testified that the second delivery took place soon after the first, within "a matter of weeks \* \* \* [it] could have been 3 months \* \* \* I really don't know. I think I saw

<sup>87</sup> 21 *Hearings* 9955-57.

<sup>88</sup> 21 *Hearings* 9954. Danner testified that he offered the \$50,000 only once prior to discussing the possibility of a contribution for the 1970 congressional campaigns. 24 *Hearings* 11542.

<sup>89</sup> 21 *Hearings* 9977.

<sup>90</sup> 21 *Hearings* 9954.

<sup>91</sup> 21 *Hearings* 9953.

<sup>92</sup> 21 *Hearings* 9962.

<sup>93</sup> *Ibid.*

<sup>94</sup> *Ibid.*

<sup>95</sup> Interview of Charles Rebozo by IRS, May 10, 1973.

<sup>96</sup> 21 *Hearings* 9963.

<sup>97</sup> *Ibid.*

<sup>98</sup> 21 *Hearings* 9965.

<sup>99</sup> 21 *Hearings* 9965.

<sup>1</sup> 21 *Hearings* 9965.

<sup>2</sup> 21 *Hearings* 9966.

<sup>3</sup> *Ibid.*

somewhere Danner had indicated it was in August and that would be correct."<sup>4</sup>

Rebozo could not recall the discussion leading up to this delivery and was "inclined to think that [Danner] just brought it down [to Key Biscayne]"<sup>5</sup> Rebozo testified that he was not certain whether the delivery in Key Biscayne took place at his home or at his bank.<sup>6</sup>

Rebozo testified that he is uncertain about any conversation he had with Danner, although Danner may have said "there was another 50."<sup>7</sup> Rebozo testified that he did not open the envelope.<sup>8</sup>

Rebozo testified that Maheu "was never there when Danner gave me the money on either occasion."<sup>9</sup>

## B. AN ANALYSIS OF POSSIBLE SOURCES OF THE CONTRIBUTIONS

### 1. PREELECTION 1968

As discussed elsewhere in this report,<sup>10</sup> there was, during the summer and fall of 1968, an unsuccessful attempt to arrange a \$50,000 cash contribution from Hughes to then-candidate Nixon. Rebozo, Danner, and Robert Maheu, key figures in the actual deliveries, were also heavily involved in the 1968 attempt. The committee has no evidence that there was \$50,000 in cash put together for a contribution before the election in 1968.

### 2. THE SANDS HOTEL CAGE—EARLY DECEMBER 1968

In early December 1968, two Hughes employees, Lawrence T. Ryhlick and John Ianni, withdrew \$50,000 in \$100 notes from the casino cage at the Sands Hotel in Las Vegas.<sup>11</sup> Ryhlick was then the controller at the Sands, and Ianni was the executive assistant to Gen. Edward Nigro, a top Hughes aide (now deceased) at whose direction the cash was withdrawn. Ianni delivered the cash to Robert Maheu.<sup>12</sup> This transaction was unknown to the Select Committee until recently, and the evidence gathered on the withdrawal is consequently incomplete. However, the available evidence suggests that this is a likely source of one of the deliveries.

During interviews with staff members<sup>13</sup> Robert Maheu did not list this transaction when responding to general questions about political contributions. His explanations of the Sands withdrawal given to the Internal Revenue Service have not been consistent, ranging from no recall to detailed recollection (see above).

The details of this withdrawal are particularly important vis-a-vis documentary evidence on the money Rebozo returned, as explained below. The check for \$50,000 which was cashed by Ryhlick is dated

<sup>4</sup> 21 Hearings 9984.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> 21 Hearings 9985.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.* IRS notes reflect that Rebozo told them that, while Maheu was not present at either delivery, he may have been in Florida. See interview of Charles G. Rebozo by the IRS, May 10, 1973.

<sup>10</sup> See p. 933, *supra*.

<sup>11</sup> Ryhlick telephone interview, May 21, 1974. Ianni telephone interview, June 3, 1974.

<sup>12</sup> Ryhlick telephone interview; Ianni interview, note *supra*. Ryhlick says he was not present at the delivery to Maheu, but that immediately after making the delivery, Ianni reported his success to Ryhlick and Nigro.

<sup>13</sup> Robert Maheu interviews, Sept. 15, 1973, Jan. 20, 21, and 28, 1974.

December 4, 1968.<sup>14</sup> The request for the disbursement, signed by General Nigro and Ryhlick, is dated November 30, 1968.<sup>15</sup> Ryhlick prepared another request for disbursement for his own recordkeeping purpose (not a carbon or photostatic copy of the request). Ryhlick remembered preparing his disbursement record a day or two after receiving the check,<sup>16</sup> and his disbursement record is dated December 5, 1968.<sup>17</sup> He said he got the check on December 4.<sup>18</sup> In statements to the IRS, Ianni and Ryhlick placed the date of the withdrawal as December 5, 1968.<sup>19</sup> However, Ryhlick has recently indicated that December 5 was only an approximate date of withdrawal. His best recollection was that the check was cashed up to 4 days after December 4, on the date of one of General Nigro's staff meetings.<sup>20</sup> The exact date of that meeting has not yet been determined. The check cleared the Bank of Las Vegas on Monday, December 9, so it was cashed sometime between December 4 and December 9. Ryhlick is sure that it was not cashed on a Saturday or Sunday (December 7 or 8).<sup>21</sup>

The significance of these dates is as follows. In the money Rebozo returned and identified as the first delivery, there are 50 consecutively numbered \$100 bills that arrived at the Bank of Las Vegas (now the Valley Bank of Nevada) on December 5, 1968, as part of a large money shipment from the Los Angeles Federal Reserve branch bank.<sup>22</sup> The bills were shipped to the office of the Bank of Las Vegas that was used by the Sands and other Hughes casinos.<sup>23</sup> The money would have been available for bank customers at 9 a.m. on Friday, December 6. According to a Valley Bank official most of the \$100 bills available for customers go out to the customers for weekend use by the end of the day each Friday.<sup>24</sup> The Valley Bank does not keep serial number records on bills it provides to commercial customers,<sup>25</sup> but it is quite possible that the string of 50 bills could have been picked up from the bank by the Sands on December 6. If the December 4 check were not cashed until December 6, these 50 bills could, therefore, have been in the \$50,000 packet Maheu received from Ianni.

If the 50 bills were in the packet that was delivered to Robert Maheu, then their presence in the money Rebozo returned and identified as the first delivery would establish the Sands as the source for that delivery to Rebozo. If the Sands withdrawal was the source, the Federal Reserve evidence shows that not all the money returned and identified as the first delivery could have been the same money assembled at the Sands. There are 88 bills in the money returned and identified as the first delivery that were not available for commercial distribution until after the time of the Sands withdrawal.

<sup>14</sup> 26 *Hearings*, exhibit 22.

<sup>15</sup> 26 *Hearings*, exhibit 23.

<sup>16</sup> Ryhlick telephone interview, June 20, 1974.

<sup>17</sup> A copy of the form is in the files of the IRS.

<sup>18</sup> Ryhlick telephone interview, June 20, 1974.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

<sup>22</sup> See 26 *Hearings*, exhibit 24. The bills were delivered by the Federal Reserve to Brinks, Inc., for shipment at 3:50 p.m. on Dec. 4, 1968. According to R. H. Wynne, Sr., vice president of the Valley Bank, the shipment would have arrived at the Las Vegas bank on the afternoon of Thursday, December 5. Wynne interview, June 20, 1974.

<sup>23</sup> Wynne interview, note 22 *supra*.

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

This circumstantial possibility is particularly interesting in light of the attempted delivery in Palm Springs of cash to the Nixon campaign on December 6 and Danner's visit to Las Vegas on December 5-8.<sup>26</sup>

In addition, Maheu's earliest recollection, according to a September 21, 1971, IRS memorandum of a meeting between IRS agents and James Rogers, a tax lawyer for Robert Maheu, was that the Sands was the source for a delivery to Rebozo. The IRS memorandum stated:

Mr. Rogers said Hughes ordered Maheu to take \$50,000 from the cage at the Sands and turn it over to President Nixon. He said that Maheu probably sent an employee to the cage who returned and gave the money to Maheu. Mr. Rogers said that Maheu was supposed to turn the money which was in a sealed envelope over to an aide of President Nixon but he missed his connections and gave the money to Richard Danner instead, who later turned the money over to an aide of President Nixon's.<sup>27</sup>

This recollection of Maheu's is important in several respects. First, it is the earliest record available on the subject. Thus, it presumably reflected a fresher recollection than, for example, Maheu's lack of recall about the transaction in an IRS interview some 2 years later.<sup>28</sup> Second, Maheu's recollection that he sent someone to the cage for the money matches Ryhlick's observation that Nigro's order to withdraw the money, following standard operating procedure, would have been prompted by a Maheu to Nigro order.<sup>29</sup> Similarly, Maheu's recollection that he received the money comports with what Ryhlick and Ianni have said.<sup>30</sup> Third, the reference in the memorandum to Maheu missing connections in the planned delivery to a Nixon aide corresponds to the unsuccessful Palm Springs delivery that occurred about the time of the withdrawal from the Sands. Finally, Maheu's recollection that he gave the money to Richard Danner, who delivered it to "an aide of President Nixon", would, if correct, firmly establish this transaction as the source of one of the deliveries to Rebozo.<sup>31</sup>

### 3. NADINE HENLEY—DECEMBER 5, 1968

In addition to the \$50,000 from the Sands, Robert Maheu received two deliveries of \$25,000 each in \$100 notes on December 5 and 6, 1968, from Nadine Henley, a Hughes aide who withdrew it on December 5 from Hughes' personal account in a Hollywood branch of the Bank of America.<sup>32</sup> Henley said that Maheu requested the \$50,000 for a political contribution to President-elect Nixon.<sup>33</sup> Mr. Nixon was in Palm Springs on December 6, 1968.

A note written by Henley on December 5, 1968, says that the money she sent to Maheu on December 5 and 6 was for "State committees—Nixon's deficit."<sup>34</sup>

<sup>26</sup> See 26 *Hearings*, exhibit 25.

<sup>27</sup> Sept. 21, 1971, IRS memorandum of meeting with James Rogers.

<sup>28</sup> Mar. 15, 1973, IRS memorandum of meeting with James Rogers.

<sup>29</sup> Ryhlick telephone interview, May 21, 1974.

<sup>30</sup> Note 11, *supra*.

<sup>31</sup> See p. 956 for an analysis of the Sands as a possible source.

<sup>32</sup> See Henley exhibit 4, 24 *Hearings* 11530.

<sup>33</sup> Nadine Henley interview, Jan. 22, 1974.

<sup>34</sup> Henley exhibit 4, 24 *Hearings* 11530.

Maheu has always acknowledged receiving the above cash,<sup>35</sup> but he has given a number of differing statements of what he did with it. In March 1973 he told the IRS that it was delivered to campaign aides of Hubert Humphrey for use in the 1968 Presidential campaign.<sup>36</sup> By early December 1968, of course, the 1968 election had already occurred. On January 20 and 21, 1974, Maheu told Select Committee investigators that this \$50,000 was taken to Palm Springs for the unsuccessful delivery to President-elect Nixon and that it later became the first successful delivery to Rebozo.<sup>37</sup> He questioned that statement on January 21, however, and a few days later stated that, after returning from Palm Springs with this cash obtained from Henley, he used it to reimburse himself for a \$50,000 campaign contribution he made directly to Hubert Humphrey earlier in 1968.<sup>38</sup>

In sum, the evidence reflects that Maheu did receive \$100,000 on December 5 and 6, 1968 (from the Sands and from Henley), the disposition of which has never been conclusively determined. Once regarding the Sands money<sup>39</sup> and once regarding the Henley money,<sup>40</sup> Maheu stated that the same money was later used for the first delivery of \$50,000 to Rebozo. Danner corroborated this possibility by testifying that Maheu told him the first delivery contained the same money that was undelivered in 1968,<sup>41</sup> and Rebozo testified that Danner told him the first delivery was the same money they had discussed in 1968.<sup>42</sup>

A telephone message taken by one of Maheu's secretaries on November 22, 1968, showed a call from one Stephen Craig, with the Nixon election campaign in New York City. The message reads: "re: contribution—have deficit of \$800,000."<sup>43</sup> The Select Committee learned of this note shortly before June 28 and therefore had no time to explore its full significance. Taken at face value, however, it shows a post-election interest of the Nixon campaign in soliciting funds from Hughes. On December 17, 1968, Maheu received a form letter from President-elect Nixon, thanking "\* \* \* all of those who contributed so generously to our cause."<sup>44</sup>

In early December, Maheu received \$100,000 in cash in 2 days, traveled to Palm Springs and, Maheu has stated, tried unsuccessfully to deliver the money to Richard Nixon or an aide of his. In addition, Richard Danner was in Las Vegas from December 5-8, 1968,<sup>45</sup> talking with Maheu and other Hughes aides about possibly joining the Hughes Nevada operation.<sup>46</sup> Danner is not sure whether he was aware of Maheu's trip to Palm Springs at the time it occurred,<sup>47</sup> and he denied receiving any money from Maheu or other Hughes agents at that time.<sup>48</sup>

<sup>35</sup> IRS interviews from 1971-73; Select Committee interviews Jan. 20-21, 1974; Los Angeles testimony. Maheu signed receipts for the cash on Dec. 5 and 6, which were labelled as receipts for nondeductible contributions. Henley exhibit 4, note 32 *supra*.

<sup>36</sup> Mar. 15, 1973, memorandum of meeting between IRS agents and James Rogers, Maheu's tax lawyer.

<sup>37</sup> Robert Maheu interview, Jan. 20, 1974.

<sup>38</sup> Robert Maheu interview, Jan. 28, 1974. That contention conflicts with Henley's note of Dec. 5, 1968, which indicates that part of the \$150,000 in checks Maheu received on Sept. 9, 1968 was to cover the Humphrey contribution. Henley exhibit 4, note 32 *supra*. Humphrey had denied personally receiving a cash contribution from Maheu.

<sup>39</sup> Through his lawyer, to the IRS on Sept. 21, 1971.

<sup>40</sup> Maheu interview, Jan. 20, 1974.

<sup>41</sup> 20 *Hearings* 9532. Danner's recollection is not now clear. He stated that he cannot testify with certainty that one of the \$50,000 deliveries consisted of exactly the same money as was available in 1968. 24 *Hearings* 11542.

<sup>42</sup> 21 *Hearings* 9977.

<sup>43</sup> Notes from IRS files produced pursuant to S. Res. 288, see 26 *Hearings*, exhibit 12.

<sup>44</sup> *Ibid*.

<sup>45</sup> 26 *Hearings*, exhibit 25.

<sup>46</sup> 24 *Hearings* 11447.

<sup>47</sup> 24 *Hearings* 11448.

<sup>48</sup> 24 *Hearings* 11447-48.

Further, Danner testified that this visit to Las Vegas, his only visit to the Hughes operation in 1968, "had nothing to do with campaign, campaign contributions, none whatsoever."<sup>49</sup> However, on November 29, 1972, Danner told IRS Special Agent Donald Skelton that "he thought he and Maheu began discussing the prospective contribution shortly after the 1968 election, which preceded his employment with Hughes Tool Co."<sup>50</sup>

#### 4. NADINE HENLEY—JUNE 27—JULY 11, 1969

On July 11, 1969, Robert Maheu acknowledged in writing the receipt of \$50,000 cash from Howard Hughes "for nondeductible contributions,"<sup>51</sup> the phrase used to cover money for political contributions.<sup>52</sup> Nadine Henley acknowledged sending the cash to Maheu at his request. She did not, however, know why Maheu requested the money and apparently did not make a note of the purpose of the transaction as she had done on the December 5, 1968 withdrawal.<sup>53</sup>

Maheu told the Select Committee investigators that this cash may have been the source of the first contribution to Rebozo.<sup>54</sup>

When first asked about the source of the first delivery, Maheu said that the source was the December 5, 1968, money from Henley,<sup>55</sup> which he said he gave to his son, Peter, immediately after his return from Palm Springs on December 6 or 7.

In a later staff interview, Maheu stated that, based upon his son's recollection that he held the money he received from his father only a short time,<sup>56</sup> the June–July 1969 money was the source of the delivery,<sup>57</sup> Maheu was not able to place the July 1969 date in relation to any other events, as he had done for the December 1968 money he received from Henley. He assumed it was the date only because he rejected the December 1968 date. There is no independent evidence corroborating the date.

When questioned about the July 11 money by the IRS (in March 1973), Maheu, through his lawyer, professed complete ignorance of the transaction.<sup>58</sup> Nevertheless, less than 1 year later he said it was the source of a delivery to Rebozo. Further, when he told the Select Committee investigators that the July 11 money was the source of the first delivery after discounting the December 5 money from Henley, the investigators were not yet aware of the Sands withdrawal, and Maheu did not mention it. As the discussion on the Sands withdrawal showed, it is a likely source for the first delivery.<sup>59</sup>

#### 5. SILVER SLIPPER CASINO—OCTOBER 26, 1970

On October 26, 1970, Thomas Bell, a Hughes lawyer in Las Vegas, withdrew \$115,000 from the Silver Slipper Casino in Las Vegas.<sup>60</sup>

<sup>49</sup> 24 *Hearings* 11448.

<sup>50</sup> Notes from IRS interview, November 29, 1972.

<sup>51</sup> Henley exhibit 6, 24 *Hearings* 11534.

<sup>52</sup> Robert Maheu interview, Jan. 20, 1974.

<sup>53</sup> Nadine Henley interview, Jan. 22, 1974. The note is part of Henley Exhibit 4, 24 *Hearings* 11530.

<sup>54</sup> Robert Maheu interview, Jan. 20, 1974.

<sup>55</sup> *Ibid.*

<sup>56</sup> Peter Maheu interview, Nov. 29, 1973.

<sup>57</sup> Robert Maheu interview, Jan. 28, 1974.

<sup>58</sup> IRS memorandum of interview with James Rogers, Maheu's lawyer, Mar. 15, 1973.

<sup>59</sup> See p. 956, *supra*.

<sup>60</sup> See withdrawal slip at 26 *Hearings*, exhibit 26. Bell related his version of the withdrawal in an interview on Dec. 17, 1973. A fuller explanation of Bell's story is set forth at p. 953.



According to Bell, he immediately gave \$50,000 of that sum to Richard Danner in Danner's office with no one else present. Bell's withdrawal and delivery to Danner were made at Robert Maheu's request, according both to Bell<sup>61</sup> and Maheu.<sup>62</sup> This was the only time, Bell said, that he was asked to deliver money to Danner. Bell assumed, but was not told by Maheu or Danner, that the money was for a political contribution. Bell had no idea what Danner did with the money.

In his latest testimony, Danner denied ever receiving any money from Bell,<sup>63</sup> although he earlier testified that it was possible that Bell delivered money to him.<sup>64</sup> Danner and Maheu were in Key Biscayne shortly after the \$50,000 was allegedly given to Danner.<sup>65</sup>

This money could be the source only of the second delivery; all other potential delivery dates were before October 26, 1970.

#### 6. A NOTE ON STORAGE OF THE MONEY BEFORE DELIVERY TO REBOZO

As the earlier section on the roles of key participants shows,<sup>66</sup> there is some question about where the money for at least one of the deliveries, most likely the first, was held and for how long, between the time it was put together and the time it was delivered to Rebozo.

Before the Select Committee, Danner testified as follows:

My recollection is that one, perhaps the first one, had been locked in a box in the Frontier cage. And it was obtained from that source. Whether I got it or Mr. Maheu got it or one of the secretaries got it, I don't recall.

The second contribution, again, I don't recall whether it was Robert Maheu or his son, Peter Maheu, who delivered it to me, either in their office or my office. But I am reasonably certain that this is the way the two deliveries were made to me.<sup>67</sup>

In his November 29, 1972, telephone conversation with IRS Special Agent Skelton, according to the IRS memorandum, Danner told Skelton that the first delivery was in Key Biscayne in September 1969<sup>68</sup> and that the money that was delivered then had been kept intact in the Frontier cage "for a[t] least six months."<sup>69</sup> which would mean at least since March 1969. The spring of 1969 was about the same time, according to Danner, that Rebozo was chiding him about Hughes' failure to support President Nixon.<sup>70</sup> Danner was apparently personally involved in storing the money. He told Skelton that he, Danner, had personally supervised the transfer of the money while it was in the cage from a manila envelope to a locked box.<sup>71</sup> The only sources for money that was intact as early as March 1969 were: (a) the Sands in early December 1968, or (b) Nadine Henley on December 5, 1968. Thus, Danner's story to Skelton tends to support the view

<sup>61</sup> Bell interview, Dec. 17, 1973.

<sup>62</sup> Robert Maheu interview, Jan. 20, 1974.

<sup>63</sup> 24 *Hearings* 11466.

<sup>64</sup> 20 *Hearings* 9555.

<sup>65</sup> See p. 978 *infra*.

<sup>66</sup> See p. 948 *supra*.

<sup>67</sup> 24 *Hearings* 11467.

<sup>68</sup> See IRS notes of Nov. 29, 1972, interview of Danner.

<sup>69</sup> *Ibid.* Danner told the Select Committee that Maheu told him the undelivered money from 1968 was in a safe deposit box at the Frontier and that he, Danner, was "fairly certain" that it was the 1968 money. 20 *Hearings* 9532.

<sup>70</sup> See p. 949 *supra*.

<sup>71</sup> See IRS notes of Nov. 29, 1972 Danner interview.

that the money for the first delivery was the same money that had been obtained in December 1968.

### C. AN ANALYSIS OF POSSIBLE DELIVERY DATES

#### 1. DECEMBER 1968—THE BAHAMAS

On the disbursement form Lawrence Ryhlick prepared regarding the withdrawal from the Sands in early December 1968,<sup>72</sup> Ryhlick wrote (at some later date) the following notation:

The money was taken by John Ianni and given to Bob Maheu. I was told he was to give this to President Nixon on Maheu's trip to the Bahamas.<sup>73</sup>

The Select Committee has been unable to corroborate the accuracy of the remark. According to Ryhlick,<sup>74</sup> he made the handwritten entry regarding the Bahamas as one of his periodic attempts to make a record of the purposes for cash withdrawals given to Maheu, should he later be questioned by Hughes officials or anyone else regarding his role in obtaining funds for Maheu. Ryhlick was not sure who told him the money was intended for then President-elect Nixon, but he thought it might have been Nigro himself or Jack Hooper, chief of security for the Hughes operation. Nigro is dead, and Hooper has apparently been seriously ill since at least the fall of 1973 and has been unavailable for questioning.<sup>75</sup>

There is no evidence that Maheu was in the Bahamas after the Sands withdrawal. Danner originally testified that he visited Rebozo and President-elect Nixon on Robert Abplanalp's Bahamian island, Grand Cay, sometime between the 1968 election and the inauguration in 1969.<sup>76</sup> President-elect Nixon visited that island on November 18–19, 1968, and on December 26, 1968.<sup>77</sup> Danner's diary does not show him in the Bahamas or nearby at either time Mr. Nixon was there in late 1968. He was in Spanish Cay and Freeport in the Bahamas from December 10–15, 1968,<sup>78</sup> a visit that, Danner testified, had nothing to do with political contributions or the delivery of money to President-elect Nixon or Rebozo.<sup>79</sup> Danner's latest testimony, based upon an examination of his 1968 diary, is that (1) he saw President Nixon in the Bahamas only once in 1968 and (2) that visit was on April 10–12, 1968, at Walkers Cay, part of Abplanalp's property.<sup>80</sup> Further, Danner testified that he did not receive any money from Hughes' representatives in December 1968.<sup>81</sup>

Danner was in Las Vegas from December 5–8, 1968,<sup>82</sup> which was the same time period as (1) the receipt by Maheu of \$100,000 in cash,<sup>83</sup>

<sup>72</sup> See p. 956 *supra*.

<sup>73</sup> Notes taken from the copy of the record in the possession of the IRS. The record itself is in the possession of the Summa Corp. A written request from the Select Committee staff, dated May 31, 1974, for a copy of it has gone unanswered.

<sup>74</sup> Ryhlick interview, May 21, 1974.

<sup>75</sup> His doctor has consistently attested to Hooper's illness in written and oral communication with the Select Committee staff.

<sup>76</sup> 20 *Hearings* 9564. Danner testimony in *Maheu v. Hughes Tool Co.*, No. 72–305–HP (C.D. Cal.), May 3, 1974, pp. 7781–82.

<sup>77</sup> New York Times, Nov. 19, 1968, p. 30; New York Times, Nov. 20, 1973, p. 15; New York Times, Nov. 27, 1968, p. 18.

<sup>78</sup> 26 *Hearings*, exhibit 26–A.

<sup>79</sup> 24 *Hearings* 11431–32.

<sup>80</sup> 24 *Hearings* 11451.

<sup>81</sup> 24 *Hearings* 11447–48.

<sup>82</sup> 26 *Hearings*, exhibit 25.

<sup>83</sup> See p. 958 *supra*.

(2) the unsuccessful delivery of \$50,000 to President-elect Nixon or an aide in Palm Springs,<sup>84</sup> and (3) the shipment to the Las Vegas bank used by the Hughes-owned casinos of 50 consecutively numbered \$100 bills that were in the money Rebozo returned and identified as the first delivery.<sup>85</sup> While no firm conclusions can be drawn, this evidence and Ryhlick's note establish an interesting set of coincidences.

## 2. APRIL 2-10, 1969—KEY BISCAZYNE

No one has testified to this date as a delivery date. This was Danner's first trip to Miami after he joined the Hughes organization<sup>86</sup> and, according to Danner, it concerned business dealings in the Bahamas.<sup>87</sup> Maheu told the Select Committee investigators that the first delivery was made in Key Biscayne not long after Danner joined the Hughes operation,<sup>88</sup> but he was unable to pinpoint the date. There is no indication from available travel or hotel records that Maheu was with Danner in Florida at this time.

In summary, this is a possible delivery date without substantial support.

## 3. JUNE 26, 1969—KEY BISCAZYNE

Like the April 2-10 date, there was no testimony supporting this specific date. Danner had no specific recollection of this trip,<sup>89</sup> although he testified that in the spring of 1969 Rebozo was "more or less needling" him about Hughes' financial support of Hubert Humphrey and Hughes' failure to contribute to President Nixon.<sup>90</sup> Danner testified that "around May, possibly early in June"<sup>91</sup> 1969, after Rebozo had once refused a \$50,000 contribution, Danner and Rebozo began discussing the possibility that Hughes would contribute funds for the 1970 congressional campaign.<sup>92</sup>

## 4. SEPTEMBER 11-12, 1969—KEY BISCAZYNE

There is evidence that makes this the most probable delivery date for the first contribution. The factors suggesting this as a delivery date include the following:

1. The Rebozo-Danner discussions about Hughes' failure to contribute had set the stage for a delivery.

2. According to Danner, Maheu, who was aware of the Danner-Rebozo conversations about contribution, authorized a delivery to Rebozo "sometime during the summer \* \* \* maybe as late as August [1969]."<sup>93</sup>

3. By this time, Maheu had obtained an additional \$50,000 in cash from Nadine Henley.<sup>94</sup>

<sup>84</sup> See p. 938 *supra*.

<sup>85</sup> See p. 957 *supra*.

<sup>86</sup> 26 *Hearings*, Exhibit No. 27.

<sup>87</sup> 20 *Hearings* 9518. The trip concerned business dealings regarding CaySal Island, as reflected on his travel records.

<sup>88</sup> Robert Maheu interview, Jan. 20, 1973.

<sup>89</sup> 20 *Hearings* 9526. Danner's travel records show him in Key Biscayne on June 26, 1969.

26 *Hearings*, exhibit 28.

<sup>90</sup> 20 *Hearings* 9512.

<sup>91</sup> 20 *Hearings* 9516.

<sup>92</sup> *Ibid.*

<sup>93</sup> 20 *Hearings* 9531.

<sup>94</sup> See p. 960 *supra*.

4. When first questioned about the first delivery (by the IRS on May 15, 1972), Danner made statements that fit with a number of facts about the September 11-12 trip.

He stated as follows:

Maheu showed me the envelope. I saw that it contained packets of money, I did not count it. As I recall it, it was in his office in the Frontier Hotel. We took the DeHavilland, flew to Miami, went to Key Biscayne, met Rebozo at his house, Maheu handed him the package and says here's \$50,000, first installment. Rebozo thanked him, he told \* \* \* Maheu told him then that there would be more forthcoming later on, and that wound up that transaction. We thereafter went to dinner, we didn't discuss the campaign contributions any further that I recall, the next morning I left and flew back to Las Vegas. My recollection is on that trip Maheu stayed, kept the plane down there in Miami, he had some other business to look into.<sup>95</sup>

While Danner's recollection has changed, his early testimony is worthy of particular scrutiny because, (a) it is his first recollection, that is, closest in time to the event itself; (b) it was given free of consultation with Rebozo; and (c) it comports substantially with Maheu's recollection of the event.

(a) Maheu has stated that he was present at a Key Biscayne delivery.<sup>96</sup> Records of the Key Biscayne Hotel show that Danner and Maheu were there on September 11-12, 1969.<sup>97</sup> Records of the Hughes company plane show that it made a trip to Miami on September 11, returning to Las Vegas on September 12.<sup>98</sup> Danner's records, however, show a \$152 expense for travel on September 11-12, indicating the possibility that he traveled by commercial airliner on part of his trip to Miami and back.<sup>99</sup> If he traveled by commercial carrier from Miami to Las Vegas on September 12, that fact would coincide with his statement to the IRS that he returned to Las Vegas alone while Maheu kept the Hughes plane.

On July 5, 1973, Danner signed an affidavit to correct his May 15, 1972, testimony to the IRS. In that affidavit he stated that the first contribution was made in San Clemente on July 3, 1970. However, in subsequent testimony in court<sup>1</sup> and before the Select Committee,<sup>2</sup> Danner testified that he is certain only that a delivery, not necessarily the first, was made on July 3, 1970. His testimony, therefore, still leaves open the possibility, particularly when considered in light of the facts outlined here, that the first delivery was September 11-12, 1969.

(b) In his initial IRS testimony quoted above, Danner testified that the delivery was made at Rebozo's house by Danner and Maheu

<sup>95</sup> Danner testimony before IRS agents in Houston, Tex., on May 15, 1972, p. 18 (question and answer 201).

<sup>96</sup> Robert Maheu interview, Jan. 20, 1974.

<sup>97</sup> 26 *Hearings*, exhibit 29.

<sup>98</sup> 26 *Hearings*, exhibit 30.

<sup>99</sup> 26 *Hearings*, exhibit 31. The \$152 is divided into two unidentified charges, one for \$125, one for \$27. The cost of a one-way coach flight from Miami to Las Vegas in Sept. 1969 was \$136 plus 5 percent tax. Telephone conversation with Jim Green at the Civil Aeronautics Board, June 28, 1974. The logs of the DeHavilland show two passengers (no names given) on the Las Vegas to Miami flight and five on the return. There are no credit card records available for Danner's air travel as far back as Sept. 1969.

<sup>1</sup> Testimony in *Maheu v. Hughes Tool Co.*, note *supra* at 7791.

Question. Now, directing your testimony to the first delivery which you say was at San Clemente to Mr. Rebozo, was anyone else there?

Answer. Well, I hate to describe it as the first delivery, but the delivery.

<sup>2</sup> 24 *Hearings* 11485.

and that the three of them "thereafter went to dinner."<sup>3</sup> Maheu's version of the Key Biscayne delivery at which he said he was present conforms to Danner's in two respects: Maheu told the Select Committee that the delivery was made in Rebozo's house and that the three men then went together to dinner.<sup>4</sup> Both Danner and Rebozo testified before the Select Committee that the delivery was at Rebozo's bank office without Maheu present,<sup>5</sup> and Danner cannot remember whether he and Rebozo dined together after delivery was made.<sup>6</sup>

Finally, Danner once placed the time of the first delivery as September 1969. On November 29, 1972, after he had first answered questions before the IRS, Danner called IRS Special Agent Donald Skelton in response to IRS requests that Danner review his records regarding possible dates and places of delivery. Danner told Skelton, according to the contemporaneous memorandum Skelton prepared,<sup>7</sup> that:

(a) As near as he, Danner, could tell the first delivery was made in September 1969;

(b) The money for the delivery was locked in a secure box in the Frontier Hotel cage for at least 6 months before the delivery;

(c) At Danner's instructions, the money was once transferred within the cage from one box to another;

(d) He and Maheu made the first delivery in Key Biscayne; and

(e) The second delivery was in San Clemente on July 3, 1970;<sup>8</sup>

(f) Maheu and Danner began talking about making a contribution to Rebozo shortly after the 1968 election, before Danner joined Hughes.

These facts would tend to establish the dates of the deliveries. In addition, it is worth noting that the information Danner provided on November 29, 1972, comports with his earlier testimony to the IRS and with the evidence summarized in this section,<sup>9</sup> although he testified to the Select Committee that he was " \* \* \* reasonably certain that no delivery of money was made on that date."<sup>10</sup> Taken all together, however, the evidence described above indicates that September 11-12, 1969, was the date of the first delivery.

#### 5. FEBRUARY 3-5, 1970—KEY BISCAYNE

On February 3-5, 1970, Danner was in Key Biscayne, registered at the Key Biscayne Hotel.<sup>11</sup> According to Danner's expense records, he had "[c]ontact with Rebozo re: TWA suit, Air West matters"<sup>12</sup> on

<sup>3</sup> See p. 951 *supra*.

<sup>4</sup> Robert Maheu interview, Jan. 21, 1974.

<sup>5</sup> See p. 949 *supra* for Danner and Rebozo testimony.

<sup>6</sup> 24 *Hearings* 11466.

<sup>7</sup> Notes from IRS turned over to the Select Committee pursuant to S. Res. 288.

<sup>8</sup> In his May 1972 testimony before the IRS, Danner had placed the second delivery in San Clemente "[s]ome time later," question and answer 102, than the Key Biscayne delivery. He was not then more specific on the date.

<sup>9</sup> Danner is not clear on when he and Rebozo first discussed Danner's IRS testimony of May 1972, but he thinks it was before the November 1972 election (24 *Hearings* 11477). Hence before the call to Skelton on November 29. When he and Rebozo discussed the deliveries, Rebozo insisted that Maheu was not present at either one (24 *Hearings* 11465). If Rebozo and Danner did in fact talk about the deliveries before the election, Danner was nonetheless reiterating his May 1972 story when he called Skelton in late November.

<sup>10</sup> 24 *Hearings* 11465.

<sup>11</sup> 26 *Hearings*, exhibit 32.

<sup>12</sup> 26 *Hearings*, exhibit 33.

this trip; according to his testimony, the *TWA v. Hughes* case and the acquisition of Air West were subjects of discussions with Rebozo at that time.<sup>14</sup>

Although the hotel records subpoenaed by the Select Committee do not show Maheu in Key Biscayne on February 3-5, Danner testified that Maheu was with him on the trip,<sup>15</sup> which included a visit to Nassau by Danner, Rebozo, and perhaps Maheu. Robert Wearley, a pilot of Hughes' private plane, the DeHavilland, testified that Maheu might have been on the flight with Danner from Las Vegas to Miami,<sup>16</sup> and that Maheu was definitely on the plane when it left Miami and returned to Las Vegas via Washington, D.C.<sup>17</sup> Maheu told the Select Committee that he was on the flight to Miami with Danner and that he and Danner met with Rebozo on February 3-5, 1970.<sup>18</sup>

In addition, Maheu told the investigators that he testified before a Las Vegas Federal grand jury investigating Hughes' acquisition of Air West that the second delivery to Rebozo was made in a meeting among Maheu, Danner, and Rebozo on February 3-5, 1970.<sup>19</sup> Maheu, however, could not explain the basis of that testimony.

Rebozo may have been in Las Vegas shortly before the flight to Miami and may have flown with Danner and Maheu from Las Vegas to Miami.<sup>20</sup> When confronted with that possibility, Maheu stated that it was unlikely that he and Danner would have gone with Rebozo to Florida to make a delivery if Rebozo were already in Las Vegas.<sup>21</sup>

Aside from Maheu's testimony before a grand jury, the evidence that February 3-5, 1970, was a delivery date (assuming only two deliveries) is not as strong as the evidence on other dates, such as September 11-12, 1969.

#### 6. MARCH 20-22, 1970—KEY BISCAYNE

Danner and Maheu were in Key Biscayne on the above dates,<sup>22</sup> immediately after Danner received approval from Attorney General John Mitchell for Hughes' proposal to buy the Dunes Hotel.<sup>23</sup> All parties have denied that a delivery was made on this date. Maheu stated that he made a trip to Key Biscayne to see Rebozo some time during March 1970 and that the purpose was to discuss AEC testing, not to deliver money to Rebozo.<sup>24</sup> Rebozo, of course, placed the first delivery on July 3, some 4 months later.

Danner supported Maheu's recollection that the discussions with Rebozo were about AEC testing and that no contribution was made on that date.<sup>25</sup> In sum, there is no firm evidence that this was the

<sup>14</sup> 20 *Hearings* 9567.

<sup>15</sup> *Ibid.*

<sup>16</sup> 20 *Hearings* 9458.

<sup>17</sup> 20 *Hearings* 9447.

<sup>18</sup> Robert Maheu interview, Jan. 21, 1974.

<sup>19</sup> *Ibid.*

<sup>20</sup> Maheu did not remember ever flying to Florida with Rebozo, but Robert Wearley, the DeHavilland pilot, testified that "I believe he [Rebozo] departed Las Vegas with us" on the early February trip to Florida. 20 *Hearings* 9448.

<sup>21</sup> Robert Maheu interview, Jan. 21, 1974.

<sup>22</sup> 26 *Hearings*, exhibits 34, 35.

<sup>23</sup> See p. 980. John Mitchell was also in Key Biscayne during this period. Mitchell logs. 26 *Hearings*, exhibit 36, but there is no evidence that he met with Danner, Maheu, or Rebozo.

<sup>24</sup> Robert Maheu interview, Jan. 20, 1974.

<sup>25</sup> 20 *Hearings* 9581, 9587.

date of a delivery, although all participants would have a substantial interest in not admitting to a delivery date so close to the Dunes decision by John Mitchell.

#### 7. JULY 3, 1970—SAN CLEMENTE

This is the only date upon which Danner and Rebozo agree that one of the contributions was made. When questioned initially by the IRS, Rebozo said that one delivery was at San Clemente and one at Key Biscayne, but that he could not remember which came first.<sup>26</sup> In later testimony before the Select Committee, Rebozo stated that the first delivery was at San Clemente on July 3, 1970.<sup>27</sup> Danner also placed the first delivery on this date in his IRS affidavit of July 5, 1973,<sup>28</sup> which changed his May 1972 IRS testimony that San Clemente was the second delivery. In later testimony, however, he testified only that a delivery, not necessarily the first, was in San Clemente.<sup>29</sup> Robert Maheu told the Select Committee that his understanding was that both deliveries were made in Key Biscayne.<sup>30</sup>

Both Danner and Rebozo testified in detail about the July 3 delivery,<sup>31</sup> which included, according to Danner, a visit with President Nixon immediately after the delivery.

#### 8. AUGUST 19-20, 1970—KEY BISCAYNE

This is also a likely delivery date. Based at least partly upon his travel records,<sup>32</sup> which show him in Key Biscayne August 19-20, 1970, Danner testified before the Select Committee that a delivery could have been made at this time.<sup>33</sup> In addition, in his July 5, 1973, affidavit for the IRS, he stated that he was "certain" that the second delivery was on August 19-20, 1970.<sup>34</sup> Danner originally thought the Key Biscayne delivery was in August 1969, but his travel records show no trip to Key Biscayne in that period. Danner remembered a " \* \* \* time lapse, the extent of which I'm unable to define more accurately,"<sup>35</sup> between the first delivery and the second delivery. If the first delivery were on July 3, the second delivery would have been either August 19-20 or October 28-30—a date discussed below. Danner discounted the October date as too close to the 1970 election for the money to have been used for congressional campaigns,<sup>36</sup> and Maheu questioned the October date for the same reason.<sup>37</sup>

Rebozo testified that the second delivery was in Key Biscayne, following the July 3, 1970, delivery within a "matter of weeks \* \* \* [it] could have been 3 months \* \* \* I don't know. I think I saw somewhere where Danner had indicated it was in August and that would be correct."<sup>38</sup> August 19 or 20 was within "a matter of weeks" of July 3,

<sup>26</sup> May 10, 1973. IRS interview.

<sup>27</sup> 21 *Hearings* 9963.

<sup>28</sup> Danner also expressed his confusion regarding this in December 1973. 20 *Hearings* 9531.

<sup>29</sup> See notes 3 and 4, *supra*, Danner's only trip to San Clemente, his travel records show, was on July 3, 1970. 26 *Hearings*, exhibit 21.

<sup>30</sup> Robert Maheu interviews, Jan. 20, 1974.

<sup>31</sup> See p. 949 *supra*.

<sup>32</sup> 26 *Hearings*, exhibit 37.

<sup>33</sup> 20 *Hearings* 9555.

<sup>34</sup> IRS notes.

<sup>35</sup> 24 *Hearings* 11539.

<sup>36</sup> 20 *Hearings* 9556.

<sup>37</sup> Robert Maheu interview, Jan. 21, 1974.

<sup>38</sup> 21 *Hearings* 9954.

1970, while October 28 to 30 is almost 4 months after July 3, Rebozo's recollection of "a matter of weeks" between deliveries, plus his inclination to accept the August date lend credence to August 19 or 20, 1970, as a delivery date.

Danner's present recollection is that he made the trip to Key Biscayne alone, that Maheu was neither present at the delivery nor in the Key Biscayne area when it was made.<sup>39</sup> There is no indication that Maheu was in Key Biscayne on August 19 or 20, in contrast to September 11 to 12, 1969; February 3 to 5, 1970; March 20 to 22, 1970; and—see below—October 28 to 30, 1970. If Danner is correct about Maheu not being on the trip to Key Biscayne at which a delivery to Rebozo was made, then August 19 to 20 would be the date for a delivery.

#### 9. OCTOBER 28-30, 1970—KEY BISCAYNE

There is substantial conflict in the testimony with regard to these possible dates. Robert Maheu has stated that he instructed Thomas Bell sometime in 1970<sup>40</sup> to withdraw \$50,000 from the Silver Slipper Casino in Las Vegas and deliver it to Danner. Bell, as noted earlier, told Select Committee investigators that, at Robert Maheu's direction, he withdrew \$115,000 from the Silver Slipper Casino in Las Vegas on October 26, 1970, and delivered \$50,000 of that sum to Danner on the same day.<sup>41</sup> Danner's expense records show him in Key Biscayne for "conference with Rebozo"<sup>42</sup> as part of a trip to Washington, D.C., and Miami on October 26 to 30, 1970, and hotel records show Danner and Maheu in Key Biscayne on October 28 to 29, 1970.<sup>43</sup> President Nixon was also in Key Biscayne on October 27 to 28.<sup>44</sup> There is no evidence that he met with Danner or Maheu or was aware of a contribution made in Key Biscayne. Danner could not recall whether the President was in Key Biscayne when the delivery there was made.<sup>45</sup>

The strongest evidence supporting this late 1970 date is Thomas Bell's statement, based upon the withdrawal slip from the Silver Slipper, that he gave \$50,000 to Danner on October 26. On the other hand, Danner's testimony that he did not receive money from Bell,<sup>46</sup> plus the statements of Danner<sup>47</sup> and Robert Maheu<sup>48</sup> that a delivery was probably not made so close to the 1970 congressional elections, cast doubt upon this date.

#### D. STORAGE OF THE MONEY BY REBOZO

Richard Danner testified that he delivered the cash to Bebe Rebozo in manila envelopes and that the cash was wrapped with bank wrappers from the Valley Bank of Nevada.<sup>49</sup> Rebozo testified that

<sup>39</sup> 24 *Hearings* 11465.

<sup>40</sup> Maheu has given different times for the instruction. See p. 951, *supra*.

<sup>41</sup> See p. 953, *supra*.

<sup>42</sup> 26 *Hearings*, exhibit 38.

<sup>43</sup> 26 *Hearings*, exhibit 39. Further records of the DeHavilland show a Las Vegas-Washington-Miami-Las Vegas trip on Oct. 27 to 29, 1970. 26 *Hearings*, exhibit 40.

<sup>44</sup> Information provided by Congressional Research Service, Library of Congress.

<sup>45</sup> 24 *Hearings* 11467.

<sup>46</sup> 24 *Hearings* 11466. He earlier testified that he could have received money from Bell. 20 *Hearings* 9555.

<sup>47</sup> 20 *Hearings* 9556.

<sup>48</sup> Robert Maheu interview, Jan. 21, 1974.

<sup>49</sup> 24 *Hearings* 11466.



he received the first \$50,000 in a "letter-sized thick manila envelope,"<sup>50</sup> which he then took without opening it and marked "H. H." in the corner. In addition, Rebozo recalled that he wrote instructions on the envelope addressed to Thomas H. Wakefield, general counsel, telling him that if anything should happen to Rebozo, Wakefield should turn the funds over to the finance chairman of the 1972 campaign.<sup>51</sup> Rebozo then took the envelope and put it in safe deposit box No. 224 in the Key Biscayne Bank and Trust Co.

Records from the Key Biscayne Bank and Trust indicate that safe deposit box No. 224 was rented on July 9, 1968, by C. G. Rebozo with Thomas H. Wakefield as the "Lessee-deputy."<sup>52</sup> Rebozo testified that he subsequently prepared a letter of instructions to Thomas Wakefield concerning what to do with the money in box No. 224, which Rebozo placed in the director's safe deposit box at the Key Biscayne Bank.<sup>53</sup> Rebozo testified that he prepared the letter that was in the director's box a few weeks or possibly a month after he had placed the first envelope in safe deposit box 224.<sup>54</sup>

Thomas H. Wakefield declined to testify as to whether Rebozo gave him any instructions regarding the safe deposit box because he claimed the information was privileged under the attorney-client relationship with Rebozo.<sup>55</sup> However, Wakefield stated in an interview on October 18, 1973, that sometime in 1968 or 1969 Rebozo gave him a key to the box and explained that in case of Rebozo's death, Wakefield should open the box and follow the instructions.<sup>56</sup>

Rebozo testified that the second contribution was also in a manila envelope that he placed in the safe deposit box 224, and that he placed rubber bands around the two envelopes.<sup>57</sup>

Rebozo testified that he told Rose Mary Woods about the first Hughes contribution either at the time of delivery at San Clemente or immediately thereafter.<sup>58</sup> Rebozo also testified that he probably informed Woods of the second contribution at the White House.<sup>59</sup>

Rebozo added that he may have spoken to Woods about the Hughes contributions "three or four times."<sup>60</sup>

In a letter dated October 18, 1973, to special agent John Bartlett, of the IRS, Woods recalled:

Mr. Rebozo told me that he had put this campaign contribution in a safety deposit box and further that he had given his attorney instructions in the event of his death that he should open the box and follow the instructions therein. It was my understanding that those instructions were to deliver the contents to the Campaign Chairman or Finance Chairman of the next campaign.<sup>61</sup>

<sup>50</sup> 21 *Hearings* 9957.

<sup>51</sup> 21 *Hearings* 9967.

<sup>52</sup> 21 *Hearings* 10157.

<sup>53</sup> 21 *Hearings* 9967.

<sup>54</sup> 21 *Hearings* 9968.

<sup>55</sup> 24 *Hearings* 11286.

<sup>56</sup> Wakefield interview, Oct. 18, 1973.

<sup>57</sup> 21 *Hearings* 9985.

<sup>58</sup> 21 *Hearings* 9978.

<sup>59</sup> 21 *Hearings* 10002.

<sup>60</sup> 21 *Hearings* 10003.

<sup>61</sup> 22 *Hearings* 10283.

In addition, Woods gave testimony concerning Rebozo's conversation with her about the contribution as follows:

Mr. LENZNER. And do you know how soon after he received the money he told you he received it?

Miss WOODS. No sir.

Mr. LENZNER. In other words—

Miss WOODS. I'm sorry, I do not.

Mr. LENZNER. I'm sorry, finish your answer, go ahead.

Miss WOODS. I do not recall because I don't recall when he told me, I don't recall when he got the money, so I do not know how soon after.<sup>62</sup>

Woods also testified that when Rebozo advised her of the contribution, he did not specify the campaign for which the contribution was designated.<sup>63</sup>

Rebozo testified that at some point after he received the contributions, he thought he should take a look at the money itself. He testified that the money had "Las Vegas wrappers" on it, which he removed and replaced with rubber bands<sup>64</sup> because of "the stigma that is applied to anything from Las Vegas."<sup>65</sup>

Herbert Kalmbach testified that he met Bebe Rebozo on January 8, 1974, and that Rebozo told him words to the effect that:

Undoubtedly, Herb, I have not told you that after you and I talked last spring regarding the Hughes money [April 30, 1973] I found that I had not in fact disbursed any of the Hughes cash to the several people I named. When I went into the safe deposit box, I found that the *wrappers around that cash had not been disturbed, and so it was clear that no part of this money had been used during the several years it was in my box.*<sup>66</sup> [Emphasis added.]

Since Rebozo's discussion with Kalmbach was on April 30, 1973, then either his statement that he removed the bank wrappers and placed rubber bands around the money is not true or his statement to Kalmbach was not true.

In this regard, it is significant to note the comments of Kenneth Whitaker, the FBI agent who was present on June 18, 1973—at Rebozo's request—when Rebozo opened the safe deposit box and had a list of serial numbers made.<sup>67</sup> According to Whitaker, there were 10–12 packets of money in 2 envelopes. Some of the packets were held together by rubber bands, as Rebozo has testified, but, Whitaker said, some of the packages were still in bank wrappers.<sup>68</sup> Thus, according to Whitaker, at least some of the money in Rebozo's possession was still wrapped in bank wrappers shortly before its return.

Rebozo testified that he again entered the safe deposit box to destroy the original envelopes in which the money was contained after "the signals changed."<sup>69</sup> Rebozo said that the signals changed when he

<sup>62</sup> 22 Hearings 10201.

<sup>63</sup> *Ibid.*

<sup>64</sup> 21 Hearings 9982.

<sup>65</sup> 21 Hearings 9983.

<sup>66</sup> 21 Hearings 10191.

<sup>67</sup> Whitaker interview, Nov. 20, 1973. Whitaker's role in the return of the money is discussed at p. 1015, *infra*.

<sup>68</sup> Whitaker interview, Nov. 20, 1973.

<sup>69</sup> 21 Hearings 9968.

decided not to contribute the cash to the campaign sometime after the Hughes-Maheu split in 1970 and before the campaign. Although Rebozo has testified that the money was for the 1972 Nixon campaign, FBI agent Whitaker told his FBI superiors that, on June 18, 1973, Rebozo told him that the contribution had been for 1970 congressional campaigns.<sup>70</sup> Danner testified it was for 1970.<sup>71</sup> The Hughes-Maheu split was not until December 1970, 1 month after the 1970 congressional election. Therefore, if the money were for that election, the Hughes-Maheu split offers no reason for Rebozo not contributing the cash to appropriate campaign committees in 1970.

Rebozo recalled that after the signals changed he took the safe deposit box into his office, and placed the packets of money in large "brown envelopes" that replaced the envelopes with instructions on them. Rebozo thought this occasion—when he destroyed the envelopes with the instructions to Wakefield on them—was probably in 1972.<sup>72</sup> Rebozo testified that the sole purpose for changing envelopes was "to eliminate the instructions."<sup>73</sup> on the original envelopes. He could not recall if he placed any markings on the envelopes to keep the two contributions separate.<sup>74</sup>

The occasions when Rebozo entered his safe deposit box are difficult to determine from his records, since his visitation record card from safe deposit box 224 shows five visits between December 26, 1969, and June 5, 1970, but no visits between June 5, 1970, and June 18, 1973, when the money was removed from the safe deposit box to be counted.<sup>75</sup> Rebozo testified that there was no record of his entry into the safe deposit box because he got the key himself without signing the access card required for other customers.<sup>77</sup> At some time Rebozo destroyed the original envelopes containing the instructions to Wakefield. He destroyed the letter to Wakefield in the directors' box at some later time.<sup>78</sup>

Rebozo testified that he once lost all of his keys to his safe deposit boxes.<sup>79</sup> In July 1973, Rebozo informed the IRS that he had lost his keys approximately a year before he talked to them.<sup>80</sup> Rebozo testified that his bank uses interchangeable locks on the boxes, so he switched locks for the boxes with the lost keys.<sup>81</sup>

Rebozo testified that he then requested Wakefield's key so that he could get into the safe deposit box.<sup>82</sup> After the lock was changed, Rebozo testified that he then gave Wakefield another key that was a replacement.<sup>83</sup>

Wakefield testified that after he first received a safe deposit key from Rebozo, he placed it in an envelope in his safe, where it remained until June 18, 1973.<sup>84</sup>

According to Wakefield, (1) he received the key sometime in 1968 or 1969, (2) Rebozo never asked him for the key, (3) Rebozo never

<sup>70</sup> See letter from FBI Director Kelley to IRS Commissioner Alexander in files of IRS.

<sup>71</sup> See p. 949 *supra*.

<sup>72</sup> 21 *Hearings* 9972.

<sup>73</sup> 21 *Hearings* 9990.

<sup>74</sup> 21 *Hearings* 9990-91.

<sup>75</sup> 21 *Hearings* 10157.

<sup>77</sup> 21 *Hearings* 10014.

<sup>78</sup> 21 *Hearings* 9991.

<sup>79</sup> 21 *Hearings* 10012.

<sup>80</sup> See IRS interview of Rebozo, July 10, 1973; notes therefrom in committee files.

<sup>81</sup> 21 *Hearings* 10012-13.

<sup>82</sup> 21 *Hearings* 10013.

<sup>83</sup> 21 *Hearings* 10013.

<sup>84</sup> 24 *Hearings* 11289.

gave him another safe deposit key, and (4) Rebozo never told him he had changed the lock on box 224.<sup>85</sup>

Rebozo could recall nothing else that was done to the money or to safe-deposit box 224 until he returned the money in 1973.

## E. THE FEDERAL RESERVE EVIDENCE COMPARED TO THE SOURCES AND THE DELIVERIES<sup>86</sup>

### 1. THE MECHANICS OF TRACING THE \$100,100

*Federal Reserve Record Keeping.*—Each \$100 Federal Reserve note (hereafter note) has a series number (1928, 1950, and so forth) and a serial number, which together make the note unique. Serial numbers are often repeated in different series, however. The money Chester Davis produced for the Select Committee on December 4, 1973, contained notes from several series, beginning in 1928. Federal Reserve records on the earlier series are almost nonexistent, but the Federal Reserve assured the Select Committee that notes from those series would have been in circulation well before the relevant 1968–70 time period. Consequently subpoenas were issued only for notes in two later series represented in the \$100,100—the 1963A series and the 1969 series.<sup>87</sup>

Federal Reserve notes go through several steps before reaching commercial customers, as shown on Chart A below.

#### CHART A

##### DISTRIBUTION OF FEDERAL RESERVE NOTES

Step 1	Step 2	Step 3
(a) Printed in Washington by Bureau of Engraving and Printing; (b) sent to agent's representatives at Federal Reserve banks around the country.	Transferred by the agent's representatives to the Federal Reserve banks (cash departments) upon demand by the cash departments.	Shipped from the Federal Reserve banks (cash departments) to commercial banks upon demand by the commercial banks.

For notes on which the Select Committee subpoenaed information—except nontraceable “star” notes—the Federal Reserve supplied the dates of step (1) and step (2) in the distribution process from detailed records maintained by the Federal Reserve agents’ representatives.

The recordkeeping for step (3) was inadequate, however, despite a Federal Reserve regulation<sup>88</sup> that requires the maintenance of complete records. At the time packages of new \$100 notes are shipped from a Federal Reserve bank to a commercial bank, personnel in the Cash Department of the Federal Reserve Bank are required to record the beginning and ending serial numbers marked on each package of notes. However, Cash Department records often fail to show serial numbers. Therefore, not every 1963A or 1969 note can be traced to a particular

<sup>85</sup> *Ibid.*

<sup>86</sup> The White House has apparently had at least a general knowledge of the Select Committee's work with the Federal Reserve System. By letter of June 6, 1974, a lawyer in Kenneth Gemmill's law firm informed the Select Committee that twice in 1974 Gen. Alexander Haig told Gemmill that “there might be a problem” with the bills. See letter of Matthew J. Broderick to Terry F. Lenzner, June 6, 1974, in committee files.

<sup>87</sup> Some of the notes in the money Rebozo returned are “star” notes, which are printed and numbered separately and used as replacements for regular notes that are damaged during printing. It is impossible to trace “star” notes.

<sup>88</sup> Regulation 2060.10, Federal Reserve Loose Leaf Service.

commercial bank on a particular date. The poor recordkeeping was most unfortunate in the San Francisco Federal Reserve Bank and its branch offices, especially Los Angeles. Approximately 60 percent of the notes returned and identified as the first delivery and 50 percent of the notes returned and identified as the second delivery passed through San Francisco or one of its branches, but, because of failure to record serial numbers, less than half of those notes were traced to commercial banks.

In the materials that follow, those notes that have as their latest distribution date the date of step (2) above are notes for which no date of commercial shipment is available.

*The Search for Records.*—Records showing steps (1) and (2) in chart A are kept in numerical order by series, thus making possible almost instant retrieval of information on a given note. Records of commercial shipment, step (3) in chart A, are filed by date only, not by denomination, series, or serial number. In addition, notes of a particular denomination and series are not so regularly distributed in numerical order as in steps (1) and (2). Consequently, Federal Reserve personnel who searched for commercial shipment information on a particular note had to look at every commercial shipment form from the date of step (2) until the serial number was found or, if none were found, up to the present.

When a form recording the correct serial number was found, the search was not necessarily over, for in most Federal Reserve banks the shipment forms show only serial numbers, not series numbers. If the lapse of time between step (2) and step (3) was great—for example, over 1 year—the strong possibility existed that the serial number on the commercial shipment form was for a note from a different series. An example from one of the notes Rebozo returned and identified as the first delivery follows:

Series 1963-A; serial No. L02 935 922A; (step 2) date released to Federal Reserve Bank, March 24, 1969; (step 3) commercial shipment date April 19, 1971.

The above information was submitted to the Select Committee by the Los Angeles branch of the San Francisco Federal Reserve Bank. If true, it would contradict Rebozo's testimony that he returned the same money he received. No one has ever claimed that a delivery was made as late as 1971, so this note would have been inserted in one of the packets of money after Rebozo received it. The 2-year lapse between steps (2) and (3) seemed inordinately long to the Select Committee staff,<sup>89</sup> so the Federal Reserve was asked to check its records for the same serial number in the 1969 series. The officials in Los Angeles quickly discovered that a \$100 note in the 1969 series with a serial number identical to the 1963A note was released to the Los Angeles branch (step 2) on March 15, 1971, about 1 month before the commercial shipment date of April 19. No definite statement can be made about which of the notes was recorded on the April 19 form, but the likelihood, according to Federal Reserve officials, is that the commercial shipment form is for the 1969 note, which was released to the Federal

<sup>89</sup> By letter of Feb. 1, 1974. A. S. Carella, Vice President of the San Francisco Federal Reserve Bank, formally confirmed that suspicion by estimating that the average time between steps (2) and (3) is 2 to 3 months.

Reserve Bank much closer to April 19 than was the 1963A note in which the Select Committee was interested.

The San Francisco Reserve Bank and its Los Angeles branch provided incorrect information to the Select Committee of the kind described above on some 17 notes. In each case, if the date originally given as the commercial shipment date for the note subpoenaed had been correct, then Rebozo's testimony that he returned the same money he received would have been clearly contradicted. The double-checking of the dates, as described above, was done by the Federal Reserve at the Select Committee's request. It should have been done by the Federal Reserve as a matter of course.

## 2. SOME GENERAL FACTS ABOUT THE MONEY REBOZO RETURNED

(a) The 1,001 Federal Reserve notes were distributed among the country's 12 Federal Reserve banks after they were printed by the Bureau of Engraving and Printing. About 60 percent of the notes in the first delivery and 50 percent in the second delivery went to San Francisco or one of its branch banks, primarily the Los Angeles branch.

(b) There are very few records of commercial shipment available from Federal Reserve banks other than San Francisco.

(c) Because the San Francisco bank and its branches have more records of commercial shipment available, and because so many of the notes passed through those banks—especially Los Angeles—their records of commercial distribution have been analyzed in detail. The lopsided preponderance of notes that went to Las Vegas commercial banks in both packets of money Rebozo returned suggests that a sizable portion of the returned money was put together in Las Vegas. Most of the Las Vegas notes went to the bank that was, during 1968-70, used by the Huges-owned hotels for supplying their casinos with cash.

(d) The money identified and returned as the first delivery contains notes ranging from the 1934 series through the 1963A series. No commercial shipment information is available on any notes before the 1963A series. Most of the pre-1963A notes were released to Federal Reserve banks in the mid-1960's; a few as late as the end of 1967. The 1963A notes on which records were found were available for commercial distribution from late 1967 through June 12, 1969. The latest date of commercial distribution is June 12, 1969, when three \$100 notes identified and returned as part of the first delivery were released to the Cash Department of the Los Angeles Federal Reserve Bank by the agent's representative. No record of commercial shipment was found for this note.

(e) The money returned as the second delivery contains notes ranging from the 1928 series through the 1969 series. About three-quarters are from the 1963A and 1969 series. Notes from those series on which records were found went into commercial distribution from early 1967 through October 1, 1970. The latest date of commercial distribution is October 1, 1970, when a \$100 note identified as part of the first delivery was released from the Federal Reserve Bank of Chicago to the Lakeview Trust and Savings Bank, Chicago. The next note closest to October 1, is September 23, 1970, when a \$100 note was shipped

from the Los Angeles Federal Reserve branch office to the Nevada National Bank, 4th and Bridger, Las Vegas. There are some 33 additional notes that were not available for commercial distribution until late August or early September 1970. Therefore, there were 35 notes not available for commercial distribution until after August 19-20, 1970.

(f) The money Chester Davis made available to the Select Committee on December 4, 1973, was the money returned to Hughes in June 1973. According to Danner,<sup>90</sup> each delivery to Rebozo consisted of 10 packages of \$5,000 each, the standard size of \$100 bill packages. The money Chester Davis produced was divided into 5 packages per delivery, not 10. The 5 packages described as the second delivery contained 100 notes each. The first delivery packages, however, were uneven, ranging from 50 notes in one package to 150 in another. The extra note, in the 1,001 notes was in one of the first delivery packages. How it got there has never been explained.

### 3. THE "MATCHING" NUMBERS

Comparing the serial numbers of the bills in the first delivery with those of the bills in the second delivery produced two examples of a phenomenon that substantially contradicts Rebozo's story that he kept the two deliveries separated in the safe deposit box and did not disturb either of them until the withdrawal in 1973.

In the two examples charted below, the bills traveled through the Federal Reserve together and, as indicated on the chart, were shipped to the same commercial bank in the same package of money on the same day. That is, the dates and places described in steps (1), (2), and (3) in the distribution system described earlier<sup>91</sup> "matched" one another. However, the matching bills appear in different packages of the money Rebozo returned, one in the package identified as the first delivery and one in the second delivery. The two deliveries were apparently packaged on separate dates from 8 months to almost 2 years apart, as the preceding discussions noted.<sup>92</sup> They were either put together from different sources in Las Vegas—the Sands and the Silver Slipper—or, according to Maheu, in different cities—one delivery in Las Vegas, one in Los Angeles. According to a professional economist who analyzed their circumstances, the likelihood that the matching bills would end up coincidentally in separate deliveries that were kept segregated is "highly remote, verging on zero."<sup>93</sup>

The evidence on the matching numbers is summarized in exhibit A below. Backup documents supporting these dates are in the Select Committee's possession.

There are several other pairs of what could be "matching" notes on which the Federal Reserve evidence is incomplete, that is, there are no records of commercial shipment for the notes. Each of the incomplete sets went through steps (1) and (2) in the distribution

<sup>90</sup> See e.g., his May 3, 1974, testimony in the *Maheu v. Hughes Tool Co.* case, pp. 7791-93.

<sup>91</sup> See p. 972 *supra*.

<sup>92</sup> See p. 974 *supra*.

<sup>93</sup> See letter to the Select Committee from Dr. John Tucillo, Economics Department, Georgetown University, dated June 28, 1974, 26 *Hearings*, exhibit 41. This conclusion, however, must be viewed in light of a number of caveats which are set forth in the above letter.

system on the same dates. However, without the records for step (3) no conclusions can be drawn about whether the notes "matched" completely, as in the two examples discussed above.

## EXHIBIT A—"MATCHING" NUMBERS

Delivery—as identified by Rebozo	Series	Serial number	Date of commercial shipment	From—	To—
I. First.....	1963A	L02285857A }	Dec. 4, 1968	Los Angeles Federal	Nevada National Bank,
Second.....	1963A	L02287969A }		Reserve.	4th and Bridger, Las Vegas.
II. First.....	1963A	L03248254A }	May 21, 1969	do.....	Sunrise branch, Bank of Las
Second.....	1963A	L03248821A }			Vegas, Las Vegas.

## 4. THE FACTS COMPARED WITH POSSIBLE SOURCES OF THE DELIVERIES

The Select Committee has received evidence and testimony pointing to four possible sources of funds for the deliveries. If either of the first two sources—both in early December 1968—was a source for a delivery, evidence produced by the Federal Reserve shows that the money returned by Rebozo was not kept intact from December 1968 until its return in 1973. The third source (Nadine Henley, mid-1969) is doubtful (if the money remained intact at all times) because of where it originated—Los Angeles. Most of the money the Federal Reserve was able to trace went to Las Vegas commercial banks, not Los Angeles. The Federal Reserve evidence on the fourth source—the Silver Slipper on October 26, 1970—does not contradict the testimony that the money was kept intact from origin to return.

The discussion of Federal Reserve evidence on sources for the deliveries should be read as an introduction to the following section on delivery dates, for a full understanding of the significance of the Federal Reserve evidence is possible only when the all-important delivery dates are considered.

*Las Vegas—Sands Hotel, early December 1968.*—If this was the source of the first delivery, all the money Rebozo returned as the first delivery could not have come from the Sands. There are 88 notes in the money returned and identified as the first delivery that were not available for commercial distribution until after the Sands withdrawal and, therefore, would have been put into the \$50,000 at a later date or later dates.

The latest notes were released to the Los Angeles Federal Reserve Bank on June 12, 1969, some 7 months after the Sands withdrawal.

If this withdrawal was the source of the second delivery, most of the notes Rebozo identified as that delivery were not in circulation until well after the Sands withdrawal.

The notes that went into circulation after the Sands withdrawal show that the money Rebozo returned could not be the exact money obtained in December 1968. There are three possible explanations: (a) The money did not stay intact from time of withdrawal by Hughes' agents to time of delivery to Rebozo; (b) it did not stay intact after Rebozo received it; or (c) some combination of (a) and (b).

*Los Angeles—Bank of America, December 5, 1968* (sent to Robert Maheu by Nadine Henley on December 5 and 6, 1968, in two \$25,000 installments).—As with the Sands withdrawal of the same date, there



are 88 notes in the money identified as the first delivery that were not in commercial circulation until after the money was obtained from the Bank of America, and even more post-December 5 notes in the second delivery. In addition, most of the notes Rebozo returned (for both deliveries) that could be traced went to commercial banks in Las Vegas. Few went to Los Angeles commercial banks, and almost none went to the Bank of America.

This withdrawal almost certainly could not have been the source of the first delivery (assuming the accuracy of Maheu's and Rebozo's statements about keeping the money intact) because of the 50 consecutively numbered notes discussed earlier. Those 50 notes identified by Rebozo as part of the first delivery arrived in Las Vegas on the same day the Henley money was withdrawn from the bank in Los Angeles and were not in circulation until the next day. Therefore, they could not have been part of the withdrawal in Los Angeles.

*Los Angeles—Cash from Bank of America, probably obtained June 27, 1969* (sent to Robert Maheu by Nadine Henley, receipt acknowledged by Maheu on July 11, 1969).—If this withdrawal was the source of the first delivery, there is no contradictory Federal Reserve evidence. The latest distribution date for notes returned and identified as the first delivery is June 12, 1969. If it was the source of the second delivery, however, a sizable proportion of the notes returned and identified as that delivery could not have been in commercial circulation until after the June 27–July 11, 1969 period.

This possible source suffers from the same problem of location as does the earlier Henley money discussed in (2) above. If a delivery originated at a Bank of America branch in Los Angeles, one would expect to find a significant number of notes in the delivery that were sent to that bank or at least to banks in Los Angeles. Such is not the case with the money Rebozo returned. In contrast, most of the notes that were traced went to commercial banks in Las Vegas.

In addition, in the money returned and identified as the first delivery are 50 consecutively numbered \$100 notes that were shipped together from the Los Angeles Federal Reserve to a Las Vegas commercial bank on December 4, 1968. If this June–July 1969 money was the source of the first delivery, and if Rebozo returned the same money he received, then those 50 bills had to stay together from December 4, 1968 and find their way to Los Angeles for withdrawal by Henley some 7 months later. Such a phenomenon seems unlikely.

Taken together, the evidence either makes this source unlikely—or indicates that the money returned and identified as the first delivery was not all the same money withdrawn by Henley in June 1969 and used for a delivery to Rebozo.

*Las Vegas—Silver Slipper Casino, October 26, 1970.*—This withdrawal is a source only for the possible second delivery on October 28–30, 1970, since all other possible delivery dates were before October 1970. None of the available Federal Reserve evidence contradicts the testimony on this date. The latest commercial circulation date on money Rebozo returned as the second delivery is October 1, 1970, for a note sent to a commercial bank in Chicago.

## 5. THE FACTS COMPARED WITH POSSIBLE DATES OF DELIVERY

The following is an analysis of possible combinations of delivery dates based upon Federal Reserve evidence.

Although the reader's patience may be tested, the most comprehensible format is to analyze each possible combination of delivery dates in light of what the information obtained from the Federal Reserve shows. Rebozo and Danner have testified that one delivery was in San Clemente on July 3, 1970. Consequently, to lend some coherence to the story, that date will be used throughout this analysis, sometimes as the first delivery, sometimes as the second.

The evidence from the Federal Reserve contradicts Rebozo's testimony that the money he returned was the money he received for all possible combinations of delivery dates save one. The only set of dates on which the Federal Reserve evidence does not contradict Rebozo's testimony is one of the variations under section VII below, and the evidence tends to suggest that set of dates is less likely than several others.

Further, as discussed in the preceding section on sources, both the early December 1968 sources (Nadine Henley and the Sands) do not support the testimony that the money was held intact from time of origin until its return in 1973. There are some 88 notes in the first delivery, and even more in the second, that were not in commercial circulation until after early December 1968.

(a) First delivery: Key Biscayne, April 2-10, 1969; second delivery: San Clemente, July 3, 1970. *Sources:*

1. Sands Casino, early December 1968 (for either delivery),  
or
2. Nadine Henley, December 5-6, 1968 (for either delivery),  
and
3. Nadine Henley, July 11, 1969 (for the second delivery).

None of the participants has suggested the April 1969 period as a possible time of delivery, and Danner testified that his trip to Florida, which included a business visit to Nassau, could not have been the occasion for delivery.<sup>94</sup> If a delivery did occur at this time, Rebozo's testimony that he did not disturb the first delivery from time of receipt until June 1973 would be incorrect. There are some 50 notes in the money returned and identified as the first delivery that could not have been in commercial circulation until after April 2, 1969. In addition, the evidence on this pair of dates would contradict Rebozo's testimony that the money he received as the second delivery was the money he returned in June 1973, for there are 72 notes in the money returned and identified as the second delivery that could not have been in commercial circulation until after July 3, 1970.

(b) First delivery: Key Biscayne, June 26, 1969; second delivery: San Clemente, July 3, 1970. *Sources:*

1. Sands, early December 1968 (for either delivery), or
2. Nadine Henley, December 5-6, 1968 (for either delivery),  
and
3. Nadine Henley, July 11, 1969 (for the second delivery).

<sup>94</sup> 20 Hearings 9518.

The June 26 date has never been suggested by any of the parties as a possible delivery date, although Danner testified that he and Rebozo discussed campaign contributions about this time. If this combination is correct, the source for the first delivery would have to be one of the early December 1968 withdrawals, since the July 11 money came after June 26. There are a number of notes in the money identified as the first delivery that were not in circulation until later dates, thus contradicting Rebozo's testimony. Rebozo's testimony would also be incorrect as to the second delivery, for the same reason explained in possibility 1 above, that is, there are 72 bills in the money returned and identified as the second delivery that were not in circulation until after July 3, 1970.

(c) First delivery: Key Biscayne, September 11-12, 1969; second delivery: San Clemente, July 3, 1970. *Sources:*

1. Sands, early December 1968 (for either delivery), or
2. Nadine Henley, December 5-6, 1968 (for either delivery), or
3. Nadine Henley, July 11, 1969 (for either delivery).

This is a probable combination of dates, as discussed earlier.<sup>95</sup> Rebozo's testimony reconciles for the first delivery only if the money for that delivery was the money Maheu received on July 11, 1969.

However, if the source were one of the early December 1968 withdrawals, the testimony would not stand up because a number of bills returned and identified as the first delivery were not in circulation until after early December 1968. In addition, as with possibilities 1 and 2, the Federal Reserve evidence on the money returned and identified as the second delivery contradicts Rebozo's testimony on the second delivery because there are 72 notes in the money Rebozo returned and identified as the second delivery that were not in circulation until after July 3, 1970.

(d) First delivery: Key Biscayne, February 3-5, 1970; second delivery: San Clemente, July 3, 1970. *Sources:*

1. Sands, early December 1968 (for either delivery), or
2. Nadine Henley, December 5-6, 1968 (for either delivery), or
3. Nadine Henley, July 1969 (for either delivery).

If this is the correct combination, Rebozo's testimony stands up for the first delivery if the money was put together on July 11, 1969, but not if it was put together in early December 1968, for the reasons listed in the preceding sections. Further, as with earlier possibilities 1, 2, and 3, the evidence on the money returned and identified as the second delivery contradicts Rebozo's testimony.

(e) First delivery: Key Biscayne, March 20-22, 1970; second delivery: San Clemente, July 3, 1970. *Sources:*

1. Sands, December 5, 1968 (for either delivery), or
2. Nadine Henley, December 5-6, 1968 (for either delivery), or
3. Nadine Henley, July 11, 1969 (for either delivery).

Again, Rebozo's testimony stands up for the first delivery only if it consisted of the money Maheu received on July 11, 1969. Similarly, as with the earlier discussions of July 3, the evidence on the money returned and identified as the second delivery contradicts Rebozo's testimony on the second delivery because of the 72 bills returned and identified as the second delivery that were not in circulation until after July 3.

<sup>95</sup> See p. 963 *supra* (for Sept. 11-12, 1969); p. 967, *supra* (for July 3, 1970).

(f) First delivery: San Clemente, July 3, 1970; second delivery: Key Biscayne, August 19-20, 1970. *Sources:*

1. Sands, December 5, 1968 (for either delivery), or
2. Nadine Henley, December 5-6, 1968 (for either delivery), or
3. Nadine Henley, July 11, 1969 (for either delivery).

This is the first possible arrangement in which the first delivery is in San Clemente. Once again, Rebozo's testimony stands up for the first delivery only if the money delivered to Rebozo was the money Maheu received in July 1969. In addition, if the second delivery was on August 19-20, Rebozo's testimony could not be correct. There are 35 notes in the money he returned as the second delivery that were not available for commercial distribution until after August 20, 1970.

(g) First delivery: San Clemente, July 3, 1970; second delivery: Key Biscayne, October 28-30, 1970. *Sources:*

1. Sands, December 5, 1968 (for first delivery), or
2. Nadine Henley, December 5-6, 1968 (for first delivery), and
3. Nadine Henley, July 11, 1969 (for first delivery), and
4. Silver Slipper, October 26, 1970 (for second delivery).

This is the only one of the seven possible combinations under discussion that can conform to Rebozo's testimony that the money he returned was the exact money he received. Even this combination reconciles with his testimony only if source 3, the July 11, 1969, money from Henley, was the source of funds for the first delivery and if source 4, was the source of the funds for the second delivery. If the first delivery was put together from source 1 or 2, the general problem with these dates applies here, that is, there are 88 notes in the money returned and identified as the first delivery that were not available for commercial distribution until after the early December 1968 transactions. If the first delivery was put together on or about July 11, 1969, and delivered on July 3, 1970, Rebozo's testimony is not contradicted by the Federal Reserve records.<sup>95a</sup>

If the second delivery was put together on October 26, 1970, Rebozo's testimony is not contradicted for that date. The latest date of commercial distribution available on the money returned and identified as the second delivery is October 1, 1970, for a note sent to a commercial bank in Chicago.

## VI. DUNES REPORT

### INTRODUCTION

Howard Hughes was a significant contributor to President Nixon's 1972 campaign. Although other principals in the Hughes-Rebozo contribution have disputed him,<sup>96</sup> Mr. Rebozo testified that the \$100,000 in cash he received from an agent of Hughes was for President Nixon's 1972 campaign.<sup>97</sup> In addition to the secret contribution to Mr. Rebozo, Hughes contributed some \$150,000 directly to the Nixon reelection campaign. The Rose Marv Woods' list of pre-April 7, 1972, contributors shows a total of \$50,000 from Mr. Hughes. The remaining \$100,000

<sup>95a</sup> Note, however, that the 50 consecutively numbered bills in the alleged first delivery returned by Rebozo were delivered to Las Vegas banks, thereby making the July 1969 withdrawal from the Los Angeles Bank of America an unlikely source of the money Rebozo returned. See p. 957 *supra*.

<sup>96</sup> See the discussion on the deliveries to Rebozo at p. 962.

<sup>97</sup> See p. 954.

was contributed to various State Finance Committees To Re-Elect the President after April 7—generally after the election—and duly recorded.<sup>98</sup>

Besides being a contributor to Nixon campaigns in 1968 and 1972, Mr. Hughes was also a man whose numerous business activities were under frequent Government review. As part of its investigation of Hughes' contributions to the 1972 campaign pursuant to Senate Resolution 60, the Select Committee investigated Hughes' relations with Federal agencies from the date of the 1968 Presidential election through 1972.

The circumstances surrounding Hughes' efforts in 1970 to buy the Dunes Hotel in Las Vegas show questionable conduct at high levels of the executive branch and raise serious questions about the relation between campaign contributions by Hughes and Federal actions affecting Hughes. The problems inherent in difficult-to-trace cash contributions are emphasized in the Dunes case, where Richard Danner, the man who delivered the Hughes cash to Charles G. Rebozo, the President's close friend, also presented Hughes' case on the hotel purchase directly to the Attorney General in a series of secret meetings.

In early October 1973, the Select Committee staff began examining documents and interviewing the parties involved in the case. Over 50 interviews were conducted during the course of the investigation. The Antitrust Division of the Department of Justice cooperated freely and generously with the inquiry by providing copies of its files on the Dunes and the two other hotel cases involving Hughes and by making staff lawyers available for interviews.

#### A. PRIOR ANTITRUST DIVISION REVIEW OF HUGHES' HOTEL ACTIVITIES— THE STARDUST AND LANDMARK CASES

Between early 1967 and early 1968 Howard Hughes bought four resort hotels in Las Vegas,<sup>99</sup> as well as a substantial amount of land on the "Strip," and there was a widespread suspicion that Hughes wanted to buy up all of Las Vegas. As shown in memorandums written to and by Hughes, Hughes was keenly interested in the hotel negotiations undertaken on his behalf by Robert Maheu, chief of Hughes' Nevada operations. Copies of some of the 1968 Hughes-Maheu memorandums in which hotel purchases were discussed have been obtained by the Select Committee.<sup>1</sup>

By March 1968, Hughes was actively pursuing several possible hotel purchases, including the Stardust in Las Vegas, and was concerned about whether the State gaming commission would approve any purchases he made.<sup>2</sup> Hughes' interest in the financial details of the proposed purchases was typified in Maheu's March 6, 1968, memorandum to Hughes on the Stardust<sup>3</sup> and in Hughes' memorandum to

<sup>98</sup> See GAO list of 1972 contributors. Hughes contributed \$50,000 to the 1968 Nixon campaign.

<sup>99</sup> The Desert Inn, the Sands, the Castaways, and the Frontier. Hughes also bought the Silver Slipper Casino, which has no hotel attached to it, in mid-1968.

<sup>1</sup> Although the Select Committee has no copies of Hughes-Maheu memorandums written during the Dunes negotiations, there is reason to believe, based upon testimony received, that Hughes was as intimately involved in the Dunes negotiations as he was in the earlier purchases. Many of the memorandums were handwritten, and examples of the memos are found in the exhibits to this report. These exhibits are all found in 26 *Hearings* and for this section, are labeled, as "Dunes exhibits."

<sup>2</sup> 26 *Hearings*, Dunes exhibit 1.

<sup>3</sup> 26 *Hearings*, Dunes exhibit 2.

Maheu of March 17, 1968,<sup>4</sup> which set forth their evolving understanding of the proposed purchase terms. In a memorandum to Maheu dated March 14, 1968,<sup>5</sup> Hughes explained his strategy for obtaining gaming commission approval of his proposed purchases, which essentially was to promise the commission that the Stardust would be Hughes' last major hotel-casino acquisition in Las Vegas. The Dunes was apparently of interest to Hughes at this early date,<sup>6</sup> but nothing happened until 1970.

In early April 1968, the Antitrust Division of the Department of Justice, aware of Hughes' interest in the Stardust and other Las Vegas hotels, began a formal investigation, or preliminary inquiry. The preliminary inquiry, which consisted of statistical research and analysis of the Las Vegas hotel industry and interviews of Hughes representatives,<sup>7</sup> was conducted primarily by James J. Coyle, then a staff lawyer in the Antitrust Division's San Francisco office and now chief of the Los Angeles office. As a result of his investigation, Coyle developed an expertise in the area of hotel acquisitions that was later used in evaluating other proposed purchases by Hughes, including the Dunes.

In a mid-April memorandum, Richard Gray, a Hughes lawyer from Houston, told Hughes of a Justice Department request that the planned May 1 purchase of the Stardust and the Silver Slipper Casino—also in Las Vegas—be delayed until June 30 to give the Antitrust Division time to review the case.<sup>8</sup> By April 20, Hughes was apparently confident that the Justice Department review would present no problems,<sup>9</sup> but he was wrong. Although the Nevada Gaming Commission approved Hughes' plan to buy the Stardust,<sup>10</sup> the Justice Department inquiry led to a civil complaint, signed by the required Justice Department personnel, including Attorney General Ramsey Clark, and scheduled for filing in late June 1968.<sup>11</sup> Faced with the prospect of a lawsuit, Hughes' representatives postponed the merger shortly before the complaint was to be filed. Consequently, the suit was not filed. Hughes did not try again to purchase the Stardust, although Hughes' representatives tried in vain to obtain a reversal of the Department's position in the following months.

The gist of the complaint was that adding the Stardust to Hughes' other hotel holdings would violate section 7 of the Clayton Act<sup>12</sup> by

<sup>4</sup> 26 *Hearings*, Dunes exhibit 3.

<sup>5</sup> 26 *Hearings*, Dunes exhibit 4.

<sup>6</sup> 26 *Hearings*, Dunes exhibit 5. Hughes' handwritten notes following Maheu's information on the Dunes concern an unrelated matter, Hughes relations with Bill Gay, an aide of his.

<sup>7</sup> The Antitrust Division Manual, pp. 54-55, an internal document for staff lawyers written several years ago, speaks of preliminary inquiries, involving no more than 1 week's work by one person, and full investigations, involving more time. The two categories have in fact been merged, according to present Antitrust Division officials. All investigations, up to the point of filing a complaint, are now termed "Preliminary Inquiries."

<sup>8</sup> 26 *Hearings*, Dunes exhibit 6.

<sup>9</sup> See 26 *Hearings*, Dunes exhibit 7, an April 30, 1968 Hughes to Maheu memorandum in which Hughes says, without elaboration, "I am truly impressed with what you tell me about Justice."

<sup>10</sup> On April 30, 1968, by a 3-2 vote. Under questioning by George M. Dickerson, Chairman of the gaming commission, Richard Gray reiterated a pledge made earlier by Robert Maheu that Hughes planned no more acquisitions of major hotels or casinos in southern Nevada if allowed to buy the Stardust. Transcript of Nevada Gaming Commission meeting, April 30, 1968, pp. 76-77. See 26 *Hearings*, Dunes exhibit 8. Maheu made the pledge to the Nevada Gaming Policy Board, the investigative arm of the commission, on March 15, 1968. Transcript of gaming policy board meeting, p. 5.

<sup>11</sup> The complaint is contained in the official file on the Stardust case, given to the Select Committee by the Antitrust Division. The complaint and supporting memorandum are at 26 *Hearings*, Dunes exhibit 9.

<sup>12</sup> 15 U.S.C. 18.

increasing his share of the relevant market—defined in the complaint as resort hotel rooms in Las Vegas—to almost 40 percent, well beyond the percentages allowed by leading antitrust cases and by the Merger Guidelines promulgated by the Department on May 30, 1968,<sup>13</sup> and hence to an unlawfully anticompetitive level. The proposed complaint and accompanying legal memorandum are important reference points for the later handling of the Dunes case by the Justice Department.

In the fall of 1968 Hughes became seriously interested in buying the Landmark Hotel in Las Vegas,<sup>14</sup> the then unfinished structure that was beset with substantial financial problems. Hughes' lawyer, Richard Gray, and lawyers for the owner submitted to the Antitrust Division a written request for advance approval, called a "business review letter," contending that the Landmark was a "failing company" that could be saved from bankruptcy only by Hughes' offer. The "failing company doctrine" is an explicit exception to the strictures of the merger guidelines.<sup>15</sup> The procedures for processing and granting requests for business review letters are set forth in Antitrust Division regulations.<sup>16</sup>

The Landmark file is extensive.<sup>17</sup> As in the *Stardust* case, the proposed purchase was found to violate the merger guidelines. The Antitrust Division expressed to the buyer and seller serious doubts about whether the "failing company" defense, necessary to override a violation of the guidelines, had been adequately established and demanded more proof.

A full-scale investigation was launched by the Antitrust Division, including numerous interviews of possible alternative purchasers by Antitrust Division lawyers, particularly James Coyle, who had worked on the *Stardust* case. On January 17, 1969, the Antitrust Division formally approved the purchase—in writing—having decided that an exception to antitrust rules was justified because no other alternative to bankruptcy existed besides Hughes.<sup>18</sup> Hughes now owns the Landmark.

## B. THE DUNES

### 1. HOW IT BEGAN

Hughes' proposed purchase of the Dunes Hotel in Las Vegas was handled by Hughes' representatives and by the Justice Department very differently than were the *Stardust* and *Landmark* cases. In early 1970, Hughes instructed Robert Maheu to negotiate to buy the Dunes. According to Maheu, the instruction, like so many from Hughes, came without prior notice and with no explanation of Hughes' reasons.<sup>19</sup> (The Select Committee has discovered no Hughes-Maheu memo-

<sup>13</sup> Relevant portions of the guidelines on horizontal mergers, of which the *Stardust* purchase would have been an example, are at 26 *Hearings*, Dunes exhibit 10.

<sup>14</sup> This interest emerged despite the pledge of no more southern Nevada purchases made to the Nevada Gaming Commission earlier in the year. See note 10, *supra*.

<sup>15</sup> See merger guidelines, pp. 11–12 at 26 *Hearings*, Dunes exhibit 11.

<sup>16</sup> Volume 28, Code of Federal Regulations, section 50.6. The regulations require submission of all relevant data to the Antitrust Division including collateral oral agreements, and state that only written clearance can be given by the Department and relied upon by the parties to a proposed transaction. The regulations in effect at the time of the Landmark review are set forth at 26 *Hearings*, Dunes exhibit 12. Revised regulations designed to increase public access to business review letters went into effect on Feb. 15, 1974, as amendments to section 50.6.

<sup>17</sup> The Antitrust Division gave the Select Committee the official Landmark file, containing the exchange of letters between the Antitrust Division and the parties to the Landmark transaction and the internal memorandums prepared by Antitrust Division lawyers.

<sup>18</sup> See 26 *Hearings*, Dunes exhibit 13, for the letter sent to the interested parties by the Antitrust Division.

<sup>19</sup> Robert Maheu interview, January 21, 1974.

randums covering the Dunes negotiations.) Maheu says that Hughes, with whom he was frequently in touch regarding the Dunes, instructed him to send Richard Danner, then manager of the Hughes-owned Frontier Hotel in Las Vegas, directly to John Mitchell to obtain Justice Department approval of the purchase.<sup>20</sup>

Maheu stated that, after being thwarted by the Antitrust Division in the *Stardust* case, Hughes decided that he would never again "talk with any Assistant Attorneys General," but instead would deal only with "the boss;" that is the Attorney General.<sup>21</sup> Maheu's explanation does not square with Hughes' approach to the Antitrust Division in the *Landmark* case, where, shortly after the *Stardust* confrontation, Maheu and Richard Gray formally approached the Assistant Attorney General, Antitrust Division, with a written business review request.

A more likely reason for sending Danner directly to Mitchell was that Danner knew Mitchell from the 1968 campaign.<sup>22</sup> According to Robert Maheu, Hughes, who had to pass upon the hiring of all top executives, was pleased with the hiring of Danner in early 1969 and was aware of Danner's political contacts. Hughes-Maheu memorandums talked specifically about Danner being a liaison to the Nixon administration, and Hughes instructed Maheu to supplement Danner's income some \$10,000-\$12,000 per year to compensate him for his liaison activities.<sup>23</sup>

## 2. THE MITCHELL-DANNER MEETINGS

John Mitchell's decision to approve the Dunes purchase apparently rested on a series of secret meetings between Mitchell and Danner in early 1970. The following summary is based upon interviews with Mitchell and Danner, Mitchell's logs, and Danner's expense records. Significantly, there is no record of the Danner-Mitchell meetings, which no one else attended, in the Dunes file maintained by the Antitrust Division. Further, none of the Antitrust Division lawyers who knew or might have known about the case had any recollection of meeting with Danner on the Dunes, and none of them ever learned of the Danner-Mitchell meetings.

Danner, Rebozo, and Mitchell have denied that there was any connection between the discussions regarding the Dunes and the Hughes contribution to Rebozo. Mitchell said that his first knowledge of the Hughes contributions to Rebozo came from newspaper reports,<sup>24</sup> not from Danner, Rebozo, or anyone else involved in the transaction. Danner testified that he and Mitchell did not discuss political contributions or the 1972 Presidential campaign<sup>25</sup> and could not recall discussing the Dunes with Rebozo.<sup>26</sup> Mr. Rebozo testified that he

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

<sup>22</sup> The friendships among Danner, Mitchell, Rebozo, and President Nixon are covered elsewhere in this report. See p. 934, *supra*.

<sup>23</sup> Robert Maheu interviews, Jan. 20, 28, 1974.

<sup>24</sup> John Mitchell interview, Oct. 18, 1973. The first news story on the \$100,000 was a Jack Anderson column of Aug. 6, 1971, over a year after the attempted purchase of the Dunes.

<sup>25</sup> 20 *Hearings* 9582.

<sup>26</sup> 20 *Hearings* 9581.



never talked with Danner about the Dunes<sup>27</sup> or with Mitchell about any problems related to Hughes.<sup>28</sup>

### *a. Danner's Testimony*

Mitchell was aware that Danner was working in Las Vegas for Hughes. He called Danner in late 1969 and asked to see him when Danner was next in Washington. On his next trip (date uncertain) Danner saw Mitchell and discussed a Justice Department strike force being set up to combat organized crime in Las Vegas. Mitchell was doubtful that Hughes' control over the casinos affected the influence exerted by organized crime in Las Vegas. At Danner's suggestion the Attorney General sent a strike force into the Frontier Hotel to review its operations. Danner testified that a strike force was sent and that it determined that the operation of the casino was not under "mob" influence.<sup>29</sup>

The Select Committee found no evidence that any Justice Department lawyer was sent to the Frontier Hotel for such a purpose or that anybody in the Justice Department ever approved the Hughes' operation at the Frontier. One Justice Department lawyer did visit the Frontier in early 1970. David Nissen, who was an assistant U.S. attorney in Los Angeles in 1970, visited the Frontier on either January 21, 1970, or March 9, 1970, solely to examine records from the pre-Hughes days, then in the custody of Hughes' employees that were relevant to a case in Los Angeles. Nissen never discussed the merits of Hughes' operation with Hughes' personnel or with any one in the Department of Justice, including John Mitchell.<sup>30</sup>

Danner's first meeting with Attorney General Mitchell regarding the acquisition of the Dunes was in January 1970.<sup>31</sup> Danner has stated:

At about that time, the acquisition of the Dunes Hotel had come up. The Dunes was for sale. I was asked [by Robert Maheu] to talk to the Attorney General and ascertain what the guidelines might be, now or then at the time, rela-

<sup>27</sup> 21 *Hearings* 10044. Although Danner and Rebozo testified that they did not discuss the Dunes during 1969-70, they did talk about several other areas of governmental policy that were of interest to Hughes such as AEC testing, the ABM system, dumping of nerve gas, the acquisition of Air West by Hughes, and the pending TWA litigation. See Danner travel records in the files of the committee.

Danner testified that at various times he and Rebozo discussed Hughes' desire to stop atomic testing in Nevada and Hughes' purchase of Air West Airlines. See 20 *Hearings* 9595-97. Rebozo testified that they discussed atomic testing but denied any discussions of Air West. See 21 *Hearings* 10042. According to Robert Maheu, in March 1970, Hughes instructed him to pledge to Rebozo a \$1 million contribution if the atomic tests in Nevada were halted. Maheu stated that he did not make the pledge and convinced Hughes to drop the idea. Robert Maheu interview, Jan. 20, 1974.

Danner also testified that he talked with Rebozo about a possible negotiated settlement in the TWA v. Hughes litigation since Rebozo knew the principals of TWA. 20 *Hearings* 566-67. Rebozo denied such discussions and denied knowing the principals of TWA. 21 *Hearings* 10049.

In addition, Danner testified that he gave Rebozo a memorandum outlining Hughes' views on an ABM system and that Rebozo later told him that the President and Dr. Kissinger had read it and wanted to brief Hughes. (Hughes declined the offer). 20 *Hearings* 9596-98. Rebozo recalled that the Hughes' people wanted to brief President Nixon and Kissinger on some subject Rebozo could not recall and that Kissinger was willing to brief the Hughes people. 21 *Hearings* 10048.

<sup>28</sup> 21 *Hearings* 10045.

<sup>29</sup> 20 *Hearings* 9572.

<sup>30</sup> David Nissen telephone interviews, Jan. 31 and Feb. 12, 1974. For a discussion of antitrust considerations in the Dunes decision, p. 992.

<sup>31</sup> Danner's travel records place the meeting between Jan. 7-10, 1970. 26 *Hearings*, Dunes exhibit 14. However, Mitchell's logs show their first meeting to have been Jan. 23, 1970, at 3.45 p.m. 26 *Hearings*, Dunes exhibit 15. Danner's records show a meeting with Mitchell sometime between Jan. 22 and Jan. 25, 1970, to discuss the Dunes. The Jan. 7-10 meeting may have been the one at which Mitchell and Danner discussed the strike force. Danner could not place the time of the meeting as Jan. 7-10 when asked directly. 20 *Hearings* 9574.

tive to whether or not we would be in violation of antitrust, bearing in mind that at a former time when they [the Hughes organization] were negotiating for the purpose of purchasing the Stardust Hotel, the Justice Department had threatened an antitrust suit if they took it.<sup>32</sup>

Danner testified that Mitchell asked him to get "... all the figures on hotel rooms in the State of Nevada, and those owned by Mr. Hughes.<sup>33</sup> Mitchell told Danner he was unfamiliar with the Department's earlier position on Hughes' proposed hotel purchases, so Danner briefed him.<sup>34</sup>

Danner met again with Mitchell regarding the Dunes on February 26, 1970.<sup>35</sup> Danner brought with him what he remembers as a one-page statistical memorandum showing "... the total number of hotel rooms, total number of motel rooms, total number of rooms in Hughes' hotels, and any percentage."<sup>36</sup> When questioned by the Select Committee Danner thought the memorandum had been prepared by Al Benedict, then an aide of Maheu's.<sup>37</sup> However, the memorandum was prepared by Edward P. Morgan, a Washington lawyer who then represented Hughes and had represented the owners of the Stardust during the 1968 negotiations with Hughes.<sup>38</sup> The five-page memorandum (two of text, three of statistics), which was observed in the official Dunes file provided by the Antitrust Division, was undated and unidentified as to source of recipient. Further, there is no indication of how or when it was put into that file. The copy provided to the Select Committee by Morgan was attached to a cover letter from Morgan to Robert Maheu, written on February 27, 1970, one day after what the letter refers to as the Danner-Mitchell "conference."<sup>39</sup>

Interestingly, none of the Antitrust Division lawyers who worked on or theoretically had jurisdiction over the case, including then Assistant Attorney General Richard McLaren,<sup>40</sup> remembers seeing this memorandum.

The lack of a stamped date of receipt on the copy in the Dunes file indicates that the memorandum was hand-delivered to the Department and placed directly into the file, not routed through the mailroom. A memorandum setting forth similar statistics and arguments was submitted to the Antitrust Division on Hughes' behalf by Edward Morgan during the *Landmark* case.<sup>41</sup> The date of receipt, origin of the memo, and official reaction to it are noted in handwritten comments on the memorandum made by an Antitrust Division lawyer, unlike the Dunes memorandum submitted by Morgan. The memorandum submitted to Mitchell by Danner in effect argues for two changes in the market

<sup>32</sup> 20 *Hearings* 9572.

<sup>33</sup> 20 *Hearings* 9573.

<sup>34</sup> 20 *Hearings* 9578.

<sup>35</sup> 26 *Hearings*. Dunes exhibits 16 and 17. The logs show that the meeting was at 4:15 p.m. and lasted up to 55 minutes.

<sup>36</sup> 20 *Hearings* 9573.

<sup>37</sup> 20 *Hearings* 9579.

<sup>38</sup> Edward P. Morgan interview, Dec. 7, 1973.

<sup>39</sup> 26 *Hearings*, Dunes exhibit 18.

<sup>40</sup> Richard McLaren interview, Dec. 6, 1973. Other key Antitrust Division personnel who cannot recall ever seeing the memorandum are Baddia Rashid, Director of Operations, through whom all investigations and proposed complaints are normally routed, Rashid interview, Nov. 21, 1973; William Swope, an assistant of Rashid, Swope interview, Nov. 23, 1973; Bruce Wilson, then Special Assistant to McLaren and now Deputy Assistant Attorney General, Wilson interview Nov. 23, 1973; Robert Hummel, then Deputy Director of Operations and now Director of Planning and Budget, Hummel interview, Nov. 28, 1973.

<sup>41</sup> 26 *Hearings*, Dunes exhibit 19.

definition used by the Antitrust Division in the *Stardust* and *Landmark* cases: First, instead of defining the market as resort hotel rooms in Las Vegas, the Antitrust Division should instead consider all guestrooms (that is, all hotel and motel rooms) in Las Vegas or, secondly, all guestrooms in the entire State of Nevada. According to the unsubstantiated figures in the Danner memorandum, Hughes' purchase of the Dunes would not have violated the merger guidelines if one of the alternative market definitions were used.

There is nothing in the Justice Department Dunes file to indicate that any analysis was done on the memorandum delivered by Danner. Both James Coyle<sup>42</sup> and Baddia Rashid,<sup>43</sup> Director of Operations in the Antitrust Division, have noted that such a significant policy change should not have been made without an extensive analysis by lawyers in the Division.

Upon receipt of the memorandum on February 26, Mitchell told Danner, according to Danner's testimony, that he would "let the boys look this over and give you an answer later."<sup>44</sup> The only substantive discussion during the meeting apparently concerned the statistical information Danner had provided. Danner testified that the question whether the Dunes was being managed by criminal elements was not discussed.<sup>45</sup> Mitchell promised to get in touch with Danner about the Dunes, which he did when he asked Danner, in a telephone conversation, to see him the next time Danner was in Washington.<sup>46</sup> That conversation was probably on March 9, 1970.<sup>47</sup>

Danner came to Washington and met with Mitchell on March 19, 1970.<sup>48</sup> Danner recalled the conversation as follows:

I went by his office. I cannot recall whether there was anybody else present, whether he called anyone up to meet with me, but in a very perfunctory manner he said, "From our review of these figures, we see no problem. Why don't you go ahead with the negotiations."<sup>49</sup>

During the same conversation, Danner testified that Mitchell told him proposed purchase "met the guidelines"<sup>50</sup> (the merger guidelines). Danner testified that he could not recall Mitchell showing him, during the March 19 meeting, any documents reflecting an analysis of the proposed purchase by Justice Department lawyers.<sup>51</sup> In addition, Mitchell did not mention anything about removing organized crime from the Dunes or say that the decision had anything to do with that consideration.<sup>52</sup> Danner has no recollection that anyone else was involved in his conversations with Mitchell about the Dunes.<sup>53</sup>

<sup>42</sup> James J. Coyle interviews, Nov. 14, 1973, and Jan. 10, 1974.

<sup>43</sup> Baddia J. Rashid interview, Jan. 17, 1974.

<sup>44</sup> 20 *Hearings* 9580.

<sup>45</sup> 20 *Hearings* 9578.

<sup>46</sup> 20 *Hearings* 9573.

<sup>47</sup> Mitchell logs. 26 *Hearings*, Dunes exhibit 20. Danner recalled that he called Mitchell.

20 *Hearings* 9580. The March 9 entry is consistent with that recollection.

<sup>48</sup> 26 *Hearings*, Dunes exhibits 21 and 22.

<sup>49</sup> 20 *Hearings* 9573.

<sup>50</sup> 20 *Hearings* 9580.

<sup>51</sup> *Ibid.*

<sup>52</sup> 20 *Hearings* 9581.

<sup>53</sup> Danner stated on earlier occasions that he met with the head of the Antitrust Division, Richard McLaren, in addition to the Attorney General during these trips to Washington. See, e.g., his deposition before the SEC on Aug. 4, 1973, and his interview with Select Committee staff on Aug. 30, 1973, p. 7. McLaren does not remember ever meeting with Danner. McLaren interview, Dec. 6, 1973.

Immediately after the meeting with Mitchell, Danner reported the favorable result to Robert Maheu and Edward P. Morgan.<sup>54</sup> Although neither man can remember how or where the message was delivered, both Danner and Maheu were registered at the Madison Hotel on March 19, 1970.<sup>55</sup> Maheu remembers Danner telling him that the case "was taken care of in Washington and there would be no interference beyond that."<sup>56</sup>

After Danner met with Mitchell and reported to Maheu, he flew to Florida for the weekend. Maheu does not remember being in Florida then,<sup>57</sup> but records from the Sonesta Beach Hotel in Key Biscayne show Danner and Maheu registered there from March 20-22, 1970.<sup>58</sup> On Mar. 20, 1970, at 3:30 p.m., Mitchell left Union Station in Washington on a train trip to Florida.<sup>59</sup> Mitchell returned to Washington on the evening of March 23. At noon the next day, he went "back to Key Biscayne," in the words of his log.<sup>60</sup> Thus, he was apparently in Key Biscayne when Danner and Maheu were.

President Nixon was not in Key Biscayne during this time period.<sup>61</sup>

Danner asserts that he did not discuss the Dunes with Rebozo during March 20-22, 1970, despite the just-completed meeting with Mitchell, or at any other time.<sup>62</sup> Danner does not remember whether he saw Mitchell in Key Biscayne over this March weekend.<sup>63</sup> Mr. Rebozo also denies any discussion of the Dunes with Danner.<sup>64</sup>

Maheu, on the other hand, has raised the distinct possibility of a *quid pro quo* arrangement.

On July 4, 1973, Maheu testified that, after Danner returned from one of his meetings with Mitchell in Washington, Maheu set in motion one of the two \$50,000 contributions to Rebozo. According to Maheu:

\* \* \* I believe I informed Mr. Bell (Tom Bell, then a Hughes lawyer in Las Vegas) in the presence of Mr. Danner upon the return of Mr. Danner from Washington, D.C., that certain political obligations had to be met as the result of the trip which Mr. Danner had made. I believe I requested that Mr. Bell make those funds available to Mr. Danner.<sup>65</sup>

The recollections of Danner and Bell on this subject are set forth in the section on the deliveries of the \$100,000.<sup>66</sup> While uncertain about Danner's talks with Mitchell, Maheu is certain that he commented about the \$50,000 in conversations with Danner about the Dunes Hotel. When telling Danner that Hughes wanted to see Mitchell about the antitrust problems relative to the acquisition of the Dunes, Maheu noted:

<sup>54</sup> 20 *Hearings* 9580.

<sup>55</sup> 26 *Hearings*, Dunes exhibit 23.

<sup>56</sup> Robert Maheu interview, Jan. 21, 1974.

<sup>57</sup> Robert Maheu interviews, Jan. 20 and 21, 1974. Maheu does remember being in Florida for one weekend in Mar. 1970, having been sent by Hughes to promise Rebozo \$1 million in return for an administration decision to stop Nevada AEC testing (Maheu never made the promise). Maheu does not connect that weekend with any discussions of the Dunes.

<sup>58</sup> Sonesta Beach Hotel records, 26 *Hearings*, Dunes exhibit 24.

<sup>59</sup> Mitchell logs, 26 *Hearings*, Dunes exhibit 25.

<sup>60</sup> 26 *Hearings*, Dunes exhibit 26.

<sup>61</sup> Information supplied by Congressional Research Service, Library of Congress.

<sup>62</sup> 20 *Hearings* 9581.

<sup>63</sup> 24 *Hearings* 11467.

<sup>64</sup> 21 *Hearings* 10045.

<sup>65</sup> Civil deposition in *Maheu v. Hughes Tool Co.*, Civil No. 72-305-HP (C.D. Col.), vol. XII, pp. 1025-26. Danner denied telling Maheu that political obligations had to be met as a result of his visits with Mitchell. 20 *Hearings* 9606.

<sup>66</sup> See p. 949, *supra*.

I remember telling Danner that we had authority from Hughes to make a commitment to help the administration in some of the congressional races they'd be interested in. But I don't know to this day if he took the matter up with Mitchell or someone else.<sup>67</sup>

After one of Danner's trips to Washington to see Mitchell, he and Maheu, according to Maheu, talked about a planned delivery to Rebozo.<sup>68</sup>

### *b. Mitchell's Statement*

Mitchell remembers only one meeting with Danner and with Antitrust Division officials sometime in the summer of 1970. Mitchell claims that the Antitrust Division preferred to have public corporations, rather than criminal figures, owning hotels. The question on the Dunes, however, was not one of criminal influences, but rather whether the market definition should be Las Vegas hotels or hotels throughout Nevada. Mitchell cannot remember whether he or anyone in the Department ever made a decision on the Dunes. In general, Mitchell says he remembers almost nothing about the Dunes.<sup>69</sup> There is nothing in the Dunes file written by Mitchell or indicating in any way his opinion on the case.

## 3. WHAT HAPPENED IN THE ANTITRUST DIVISION

In early March 1970,<sup>70</sup> Mitchell called Richard McLaren, then head of the Antitrust Division. According to McLaren,<sup>71</sup> Mitchell emphasized that the Governor of Nevada was pushing for Justice approval of the Dunes purchase by indicating that the Dunes was hoodlum-owned and that Hughes would buy it and "clean it up." Mitchell told McLaren that he was inclined to go along with the purchase and asked McLaren to determine if Hughes could buy the Dunes without doing too much violence to the merger guidelines. McLaren interpreted this as a casual inquiry.

Soon after the call from Mitchell, Mitchell and McLaren met with James Coyle, who had developed a knowledge of the Las Vegas hotel situation in his work on the *Stardust* and *Landmark* cases. Coyle was in Washington working on the ITT case. McLaren's memory of his conversation with Coyle is vague.<sup>72</sup> In fact, until reminded of it during his interview, he could not remember meeting with Coyle; he thought he had called Coyle at Coyle's California office. Coyle's recollection is much clearer. According to Coyle,<sup>73</sup> McLaren told him that he (McLaren) might have to approve the Dunes purchase. This was the first time Coyle had heard of the possibility. McLaren told Coyle that the

<sup>67</sup> Maheu interview, Jan. 21, 1974.

<sup>68</sup> *Ibid.*

<sup>69</sup> Mitchell interview, Oct. 18, 1973.

<sup>70</sup> McLaren's and Mitchell's logs show a phone call between them on Mar. 3, 1970. 26 *Hearings*, Dunes exhibits 27 and 28.

<sup>71</sup> McLaren interview, Dec. 6, 1973. McLaren, now a Federal District Judge in Chicago, based his recollection upon handwritten notes he took during the call from Mitchell. 26 *Hearings*, Dunes exhibit 29. Those notes were provided to the Select Committee by the Antitrust Division as part of its Dunes file. On June 24, 1974, Judge McLaren submitted an affidavit to the Select Committee setting forth his recollection of the Dunes matter. 26 *Hearings*, Dunes exhibit 28A.

<sup>72</sup> Indeed, McLaren's recollection of the entire *Dunes* case is hazy. He based his statements to the Select Committee staff and his affidavit primarily upon his notes and memorandums made at the time the case was before him.

<sup>73</sup> Coyle interviews, Nov. 14, 1973, and Jan. 10, 1974.

Governor of Nevada was putting pressure on for approval by arguing that Hughes would drive the Mafia from the Dunes, and he asked Coyle for his opinion of the purchase. Coyle remembered saying that approval could not be reconciled with the Department's 1968 position on the Stardust and that the job of controlling crime should be handled by the Nevada authorities, not by making exceptions to antitrust policies. Coyle offered to write a memorandum for McLaren based upon market shares and the merger guidelines and upon his recollection of the pertinent facts in the *Stardust* and *Landmark* cases. McLaren accepted the offer.

Coyle wrote a five-page memorandum<sup>74</sup> and gave it to McLaren's secretary on March 6, 1970, just before he returned to California. He had no other involvement in the Dunes case and, hearing nothing about it, assumed that McLaren had been able to kill the idea of a Hughes purchase. The Coyle memorandum, after outlining the *Stardust* and *Landmark* cases, pointed out that the proposed purchase would increase Hughes' share of the Las Vegas resort hotel market to about 28 percent.<sup>75</sup> Coyle also noted that the proposed acquisition "\* \* \* is bound to create controversy" and that, because of prior involvement with Hughes' hotel purchases, the Antitrust Division "\* \* \* will be asked to take a position."<sup>76</sup> The memorandum concluded on an equivocal note, with Coyle suggesting a possible alternative to outright approval:

If there are overriding considerations which make it necessary to modify our prior position on Hughes' acquisitions in Las Vegas, we should tie the acquisition to the changing and unsettled market structure as suggested by Parvin Dohrman [another hotel case] and preserve our right to secure divestiture at a later date if it becomes necessary.<sup>77</sup>

On March 8, 1970, a Sunday, McLaren worked on the Dunes matter in his office for one-half hour,<sup>78</sup> presumably evaluating Coyle's memorandum.

Four days later, on March 12, 1970, McLaren and Mitchell met at 5 p.m.<sup>79</sup> and discussed the Dunes for approximately 15 minutes.<sup>80</sup> McLaren told Mitchell that the purchase would violate the merger guidelines and would make the Department look bad because of its prior position on the Stardust.<sup>81</sup> McLaren also suggested that Nevada could act on its own against criminal figures running casinos by instituting license revocation proceedings. McLaren told Mitchell that the Antitrust Division could accept the Hughes purchase if "... there

<sup>74</sup> 26 *Hearings*, Dunes exhibit 30.

<sup>75</sup> *Id.* at pp. 4-5. While Coyle did not state directly that such an increase would violate the Merger Guidelines (26 *Hearings*, Dunes exhibit 10), McLaren was presumably familiar with them and aware that 28 percent of the market would be a violation.

<sup>76</sup> 26 *Hearings*, Dunes exhibit 30, p. 5.

<sup>77</sup> *Ibid.* Coyle, in his Jan. 10, 1974, interview, said that he substituted the word "modify" for the word "reverse" in the final paragraph of his memorandum. He also stated in that interview that the only "overriding considerations" he had in mind were the antihoodlum concerns expressed to him by McLaren. Coyle did not report on his work for McLaren to his superior in San Francisco, Marquis Smith. Coyle interview, Jan. 10, 1974; Marquis Smith interview, Oct. 16, 1973.

<sup>78</sup> McLaren diary, 26 *Hearings*, Dunes exhibit 31.

<sup>79</sup> 26 *Hearings*, Dunes exhibits 32 and 33.

<sup>80</sup> 26 *Hearings*, Dunes exhibit 34.

<sup>81</sup> McLaren's recollection of this conversation is based almost entirely upon the memorandum he wrote to the Attorney General on Mar. 26, 1970, 26 *Hearings*, Dunes exhibit 35. The circumstances surrounding that memorandum and its discussion of other events are discussed below.

were no other legitimate and reasonable bids." <sup>82</sup> According to McLaren:

My remarks did not express and were not intended by me to express my approval nor to substitute for the formal investigation and report procedure which precede Division action on acquisitions of this kind. <sup>83</sup>

The meeting concluded without Mitchell indicating what his reaction to McLaren's presentation was or what his position on the purchase would be. This was the last discussion on this subject McLaren remembers having with Mitchell.

Danner testified that on March 19, as noted earlier, Mitchell conveyed oral approval of the proposed purchase to Danner. McLaren says that he never met Danner or any Hughes people, that he knows of no Mitchell meetings with Hughes' representatives, and that he knows of no approval given to Hughes by Mitchell. On March 26, unaware that Mitchell had given oral approval to Danner one week earlier, McLaren wrote a two-page memorandum to Mitchell reviewing their early March phone conversation and their March 12 meeting. <sup>84</sup>

McLaren, however, did not recall any discussions with Mitchell about the case after March 26, 1970. <sup>84a</sup> With one possible exception, <sup>85</sup> no one in the Antitrust Division remembers seeing McLaren's March 26 memorandum or talking with McLaren about it. McLaren insists that, in his March 26 memorandum, as in his March 12 meeting with Mitchell, he in no way intended to approve the proposed Dunes purchase or to relinquish his control of any future investigation if what McLaren saw as a casual inquiry turned into serious negotiations for the sale. <sup>86</sup>

#### 4. THE FBI'S ROLE

McLaren's March 26 memorandum was prompted by a March 23 memorandum written to him by FBI Director J. Edgar Hoover (with copies to no one else). <sup>87</sup> According to the memorandum, on March 19, the day Mitchell gave the go-ahead to Danner, someone representing Hughes told a Dunes representative that the Antitrust Division would not object to the purchase.

Because McLaren had not given his approval, he wrote the memorandum to Mitchell so that Mitchell could clarify any misimpressions he might have had. <sup>88</sup> It was McLaren's impression that Mitchell had talked with the Governor of Nevada about the Dunes (an impression traced back to what Mitchell told him in their first conversation in early March), and that the Governor had in turn talked to representatives of Hughes, who in turn had approached the Dunes. The end result of this chain was the clearly erroneous impression, held by the Hughes and Dunes representatives, that the Antitrust Division had

<sup>82</sup> 26 Hearings, Dunes exhibit 35, p. 2.

<sup>83</sup> 26 Hearings, Dunes exhibit 28A, pp. 4-5.

<sup>84</sup> 26 Hearings, Dunes exhibit 35.

<sup>84a</sup> See 26 Hearings, Dunes exhibit 28A.

<sup>85</sup> Baddia Rashid says he may have seen the memorandum at some point, but he also says that he may be confusing some of the language in it with material he read on the *Stardust* case, Jan. 17, 1974, interview.

<sup>86</sup> Richard J. McLaren interview, Dec. 6, 1973.

<sup>87</sup> 26 Hearings, Dunes exhibit 36.

<sup>88</sup> Richard McLaren interview, Dec. 6, 1973.

approved the purchase. McLaren attached the March 23 Hoover memorandum to his memorandum to Mitchell and concluded the memorandum as follows:

I trust that the attached FBI report inaccurately records the understanding which the State government received from the Department.<sup>89</sup>

Unfortunately, the FBI has been unable to provide further explanation of the Hoover memorandum and any interest it may have had in the Dunes. There are no FBI memorandums in either the Stardust file or the Landmark file. One Antitrust Division official has stated that this kind of apparently self-initiated FBI involvement in an antitrust case is unusual.<sup>90</sup> Another Antitrust Division official said that a memorandum directly to the Assistant Attorney General from the FBI Director was unusual.<sup>91</sup>

Hughes and his representatives were interested in enlisting FBI support for Hughes' hotel purchases at least as far back as the time of the Stardust. In a February 12, 1968, memorandum<sup>92</sup> to Maheu, Hughes urged Maheu to meet with Dean Elson, then head of the Las Vegas FBI office and later a Hughes employee, and George Dickerson, chairman of the Nevada Gaming Commission, to convince Dickerson that Hughes should be allowed to buy the Stardust because he would drive out criminal elements. James Coyle, in one of his Stardust memorandums, dated April 26, 1968, reported that the FBI was pleased to see Hughes enter the Las Vegas hotel market.<sup>93</sup>

Harold Campbell, who headed the Las Vegas FBI office at the time of the attempted acquisition of the Dunes, said that he may have written one memorandum to Washington on a report he received—some time after the Dunes negotiations terminated—that the negotiations had taken place, but he did not remember hearing about any Antitrust Division interest in the case.<sup>94</sup>

##### 5. THE "ANTICRIME" FACTOR IN THE DUNES DECISION

As the preceding discussion showed, John Mitchell told his Antitrust Division chief, Richard McLaren, that he (Mitchell) wanted to approve Hughes' plan to buy the Dunes because Hughes would drive out criminal elements present there. Mitchell told McLaren that the Governor of Nevada was pushing for approval of the purchase on this anticrime ground, and McLaren relayed that information to Coyle.<sup>95</sup> When talking with Danner about the Dunes, however, Mitchell never mentioned the anticrime argument or the Governor of Nevada,<sup>96</sup> and Danner never approached Mitchell from that angle. According to Danner, he simply gave Mitchell a statistical memorandum on hotel rooms in Nevada,<sup>97</sup> a memorandum recalled by neither McLaren nor any other Antitrust Division lawyers who should have or might have seen and evaluated it remembers. According to Danner, the only Danner-Mitchell discussion regarding criminal elements in Las Vegas hotels

<sup>89</sup> 26 *Hearings*, Dunes exhibit 35, p. 2.

<sup>90</sup> Robert Hummel interview, Nov. 28, 1973.

<sup>91</sup> Badilla Rashid interview, Jan. 17, 1974.

<sup>92</sup> 26 *Hearings*, Dunes exhibit 37.

<sup>93</sup> 26 *Hearings*, Dunes exhibit 38, p. 5.

<sup>94</sup> Harold Campbell interview, Dec. 18, 1973.

<sup>95</sup> See p. 989, *supra*.

<sup>96</sup> See p. 985, *supra*.

<sup>97</sup> See p. 986, *supra*.



was the discussion they had in late 1969 about the Frontier Hotel.<sup>98</sup> In an attempt to determine where Mitchell got the information he conveyed to McLaren in early March 1970 and whether it was correct and relevant to the approval he gave Danner, the Select Committee conducted numerous interviews.

Paul Laxalt was Governor of Nevada at the time of the Dunes and, according to McLaren, the source of pro-Hughes pressure for approval of the Dunes acquisition. He was interviewed twice and later submitted an affidavit to the Select Committee. His statements flatly contradict every aspect of Mitchell's apparent assertion to McLaren that Laxalt was promoting Hughes. Laxalt had supported Hughes in his early hotel purchases in Las Vegas,<sup>99</sup> but the Dunes presented a different case. In his affidavit to the Select Committee, Laxalt denied discussing the Dunes with any officials in Washington, stated that he would have opposed Hughes' plan if he had heard about it because Hughes had reached his limit of gaming licenses in southern Nevada, and indicated that the Dunes was, in his opinion, a "well-operated hotel, free of any problems."<sup>1</sup>

Laxalt's position was supported by Frank Johnson, who at the time of the attempted acquisition of the Dunes was chairman of the Nevada Gaming Policy Board, the investigative arm of the gaming commission. He, too, never heard about the Dunes plan and would have opposed it.<sup>2</sup>

Thinking that Mitchell might have been getting the anticrime argument he used with McLaren from within the Justice Department, the Select Committee interviewed numerous Justice Department lawyers to determine what, if any, feeling there might have been in the Department that a Hughes purchase of the Dunes in 1970 would have been desirable.<sup>3</sup>

None of these men was aware of any Hughes interest in buying the Dunes during 1970 or talked with Mitchell about the matter.

<sup>98</sup> See p. 985, *supra*.

<sup>99</sup> On July 25, 1968, 1 month after Hughes had pulled back from buying the Stardust in the face of the threatened Justice Department suit, Laxalt wrote Attorney General Ramsey Clark to urge reconsideration of the Department's position. 26 *Hearings*, Dunes exhibit 40. The letter promoted Hughes as a beneficial presence on the Las Vegas hotel scene. Writing for the Attorney General, the Assistant Attorney General, Edwin Zimmerman, replied to Laxalt on Aug. 13, politely rejecting his arguments and emphasizing the Department's "... responsibility for the consistent enforcement of the antitrust laws." 26 *Hearings*, Dunes exhibit 41.

<sup>1</sup> Paul Laxalt affidavit, 26 *Hearings*, Dunes exhibit 42. That portion of the affidavit dealing with the attempted delivery of \$50,000 to then President-elect Nixon or an aide of his is covered elsewhere in this report. See p. 938, *supra*.

<sup>2</sup> Frank Johnson interview, Dec. 19, 1973.

<sup>3</sup> The following people were interviewed:

1. Will Wilson, Assistant Attorney General in charge of the Criminal Division at the time of the Dunes (Will Wilson interview, Feb. 6, 1974):

2. Henry Petersen, present Assistant Attorney General, Criminal Division, Deputy Assistant Attorney General at the time of the Dunes (Henry Petersen interview, Feb. 19, 1974):

3. John C. Keeney, present Deputy Assistant Attorney General, Criminal Division, Chief of the Fraud Section at the time of the Dunes (John Keeney interview, Feb. 14, 1974):

4. William Lynch, Chief of the Organized Crime and Racketeering Section, Criminal Division, now and at the time of the Dunes (William Lynch interview, Jan. 31, 1974):

5. Fred Vinson, Jr., Assistant Attorney General, Criminal Division, 1965-69 (Fred Vinson, Jr., interview, Dec. 17, 1974):

6. Richard Crane, head of Los Angeles office of Justice Department strike force, 1970-present (Richard Crane interview, Jan. 31, 1974):

7. David Nissen, Assistant U.S. attorney, Los Angeles; at the time of the Dunes involved in a Las Vegas prosecution (David Nissen interview, Jan. 31, 1974); and

8. Mike deFeo, head of the Kansas City strike force, Department of Justice; a Special Assistant U.S. attorney in Los Angeles at the time of the Dunes, with responsibilities for organized crime prosecutions in Las Vegas (Mike deFeo interview, Jan. 15, 1974).

As a result, the source of John Mitchell's argument for approving the Hughes purchase that he conveyed to McLaren has not been determined.<sup>11</sup>

Hughes' representatives had made the anticrime argument in 1968 at the time of the *Stardust* case. There was some discussion between Edwin Zimmerman, Assistant Attorney General, Antitrust Division, and Fred Vinson, Jr., Assistant Attorney General, Criminal Division, about Hughes' plan to buy the *Stardust*, with Vinson deferring to the Antitrust Division but seeing merit in Hughes' argument.<sup>12</sup>

The antihoodlum argument was rejected by the Antitrust Division.<sup>13</sup>

#### 6. WHAT HAPPENED AFTER THE MARCH 26 MEMORANDUM

McLaren said that, after March 26, he heard nothing about the Dunes from Mitchell or anyone else and talked with no one about the case until late in November—discussed below. However, Walker B. Comegys, McLaren's deputy, had a different recollection.<sup>14</sup> Comegys distinctly remembered McLaren stopping by his office just before McLaren left Washington on a trip. McLaren told Comegys, according to Comegys, that Mitchell had decided not to oppose Hughes' plan to buy the Dunes because all other potential purchasers had Mafia connections. This was the first and only time Comegys heard about any concern about the Dunes within the Justice Department. According to McLaren's logs, he left for Europe on May 21, 1970.<sup>15</sup> McLaren, emphasizing that he cannot remember Mitchell telling him he had approved the Dunes purchases, was willing to accept Comegys' recollection and said he would be terribly surprised if Mitchell granted approval without consulting him, since, as far as he knew, Mitchell never doublecrossed him.<sup>16</sup>

Although Mitchell's log for May 21 shows no call to or from Danner,<sup>17</sup> Danner's telephone records show a call to the Justice Department on May 21.<sup>18</sup> Danner recalled only that the negotiations fell through sometime after March 19,<sup>19</sup> but it is possible that he called Mitchell on May 21, as the Hughes-Dunes negotiations were apparently nearing completion, and thus prompted a Mitchell-McLaren conversation and McLaren's apparent conversation with Comegys. This chain of events

<sup>11</sup> If Mitchell had asked officials in the Criminal Division about the Dunes and about how Hughes ran his casinos, he would have learned that the casino manager at the Dunes, Sidney Wyman, and several other principals of the Dunes were then under investigation by the IRS and the Justice Department for possible criminal violations of the Federal tax laws stemming from the casino operations. Wyman and the others were later indicted and acquitted at trial on Oct. 31, 1972, in Criminal No. LV-2434 (D. Nev.), filed Dec. 14, 1971, in Reno.

Further, if Mitchell had initiated a thorough investigation of Hughes' practices regarding casinos, he would have learned that retaining key personnel was Hughes' standard practice when he bought casinos and hotels. Robert Morgan executive session, Dec. 12, 1973, pp. 233-39. (Morgan is assistant comptroller of the Summa Corp. From 1967 to 1973 he was in charge of the Las Vegas accounting office of the Hughes Tool Co.) The tentative contract later drawn for the sale of the Dunes to Hughes contained a clause for the retention of Wyman. Hughes was so interested in keeping Wyman that he offered him a \$3 million loan in addition to the retention clause. (Interview of Wyman and Morris Shenker, lawyer and principal in the Dunes, Dec. 20, 1973.)

<sup>12</sup> 26 *Hearings*, Dunes exhibit 44.

<sup>13</sup> See Zimmerman's memorandum to Vinson, 26 *Hearings*, Dunes exhibit 45, and a memorandum prepared by Coyle, 26 *Hearings*, Dunes exhibit 30, p. 10.

<sup>14</sup> Walker B. Comegys interviews, Nov. 5, 1973, and Dec. 19, 1973.

<sup>15</sup> 26 *Hearings*, Dunes exhibit 46.

<sup>16</sup> McLaren interview, Dec. 6, 1973. In his affidavit, at p. 5, McLaren stated that he could recall no conversation with Comegys regarding the Dunes after Mar. 26, 1970. (See 26 *Hearings*, Dunes exhibit 28A.)

<sup>17</sup> 26 *Hearings*, Dunes exhibit 47.

<sup>18</sup> 26 *Hearings*, Dunes exhibit 48.

<sup>19</sup> 20 *Hearings* 9586.

is speculative, of course, but it may provide an explanation of the otherwise coincidental Danner call and McLaren comment, both on May 21.

At 5:05 p.m., on Friday, May 22, Comegys received a phone call<sup>20</sup> from Howard Adler, a Washington lawyer who was calling on behalf of lawyers for the Rapid-American Corp., which, like Hughes, was then negotiating a possible purchase of the Dunes. As Comegys recalls the conversation,<sup>21</sup> Adler, whom Comegys knew, told him that the people he was calling for represented another potential buyer of the Dunes who had no Mafia connections. Comegys told Adler he had gotten the message; Comegys made no comment to Adler on the Antitrust Division's position. Comegys did not remember whether he reported this call to anyone in the Antitrust Division, to Mitchell, or to McLaren when he returned from Europe in early June. Mitchell's log shows a conversation with Comegys at 12:15 p.m. on May 22, before Adler called,<sup>22</sup> and both Mitchell's and Comegys' logs<sup>23</sup> show a telephone conversation between them on May 25, the next business day after May 22.

The Adler-to-Comegys call came about as follows: Les Jacobsen, a New York lawyer for Rapid-American and partner in Fried, Frank, Harris, Shriver & Jacobsen, who was in Las Vegas negotiating with Dunes representatives,<sup>24</sup> learned that Hughes was also interested in buying the hotel. Jacobsen remembered that Hughes had had antitrust problems with his Las Vegas hotel interests in the past and wanted to make the Antitrust Division aware of another purchaser. Jacobsen called Milton Eisenberg in the firm's Washington office and told him to call the Antitrust Division. Eisenberg then called Adler, because he knew that Adler, who had been in the Antitrust Division, would know whom to call.<sup>25</sup> (Adler was not in the same firm as Jacobsen and Eisenberg.)

Adler told Comegys that he hoped the Antitrust Division would consider not only antitrust questions on the Dunes, but would also look to the question of criminal influences in Las Vegas hotels.<sup>26</sup> Neither Jacobsen nor Eisenberg remembered saying anything about the anti-Mafia argument.

The Select Committee discovered no direct link between the May 22 Adler-to-Comegys call and the May 22 letter described below.

On May 22, 1970, as the Hughes-Dunes negotiations appeared to be nearing agreement,<sup>27</sup> James Hayes, a New York City lawyer—partner in Donovan, Leisure, Newton & Irvine—representing Hughes on the *TWA v. Hughes* case, wrote a letter to the presiding Federal judge, Hon. Charles Metzner of the Southern District of New York, informing the judge that Hughes was about to buy the Dunes for \$35 million in cash and that the Attorney General had approved the purchase.<sup>28</sup> Hayes recalled being instructed by Robert Maheu to write the letter.<sup>29</sup>

<sup>20</sup> Comegys log. 26 *Hearings*, Dunes exhibit 49.

<sup>21</sup> Comegys interviews, note 14 *supra*.

<sup>22</sup> 26 *Hearings*, Dunes exhibit 50.

<sup>23</sup> 26 *Hearings*, Dunes exhibits 51 and 52.

<sup>24</sup> Les Jacobsen interview, Dec. 14, 1973.

<sup>25</sup> Milton Eisenberg interview, Dec. 17, 1973.

<sup>26</sup> Howard Adler interview, Oct. 23, 1973.

<sup>27</sup> As described in section 7 below.

<sup>28</sup> 26 *Hearings*, Dunes exhibit 53; referred to by Judge Metzner in his opinion setting the amount of bond. *Trans World Airlines, Inc. v. Hughes*, 314 F. Supp. 94, 98 (S.D.N.Y. 1970).

<sup>29</sup> James Hayes telephone interview, Dec. 6, 1973.

Hughes had recently lost a large monetary judgment in the district court and was before Judge Metzner on the question of how large the supersedeas bond should be for appeal. The judge was concerned that Hughes was tying up too many of his assets in nonliquid items, which could present problems of liquidity if the judgment against Hughes were upheld on appeal. Maheu remembered telling Hayes, at Hughes' request, to write the letter,<sup>30</sup> but did not remember telling Hayes that Mitchell had approved the deal.<sup>31</sup> Edward P. Morgan, who was in Las Vegas with Maheu on May 22 negotiating the deal for Hughes, remembered talking with Hughes' lawyer Chester Davis after Maheu brought him into a Maheu-Davis telephone call.<sup>32</sup> Morgan told Davis that the deal was on the verge of final agreement. Davis told Morgan that he needed the information for Judge Metzner; Morgan assumed that Danner relayed the information from Mitchell to Hayes.<sup>33</sup> Richard McLaren was unaware of the letter until apprised of it by the Select Committee staff. Based upon the integrity and reputation of Hayes and his firm, McLaren was sure that Hayes would not have written the letter without receiving assurances that Mitchell had approved the deal.<sup>34</sup>

#### 7. THE NEGOTIATIONS AND THEIR COLLAPSE

Shortly after Danner received approval from Mitchell and gave the news to Maheu, Maheu—as always, at Hughes' request—called Edward P. Morgan and told him to begin negotiations with representatives of the Dunes. Morgan described the call this way:

I got a call from Mr. Maheu, saying that Mr. Hughes was most interested in acquiring the Dunes Hotel, and I remember my reaction was, in effect, how in the hell does he expect to do this, when he was turned down on the Stardust deal by the Antitrust Division, and in the intervening period, acquired the Landmark under an exception, and then I learned, as I had learned in other areas, that mine was not to know the reason why, that Mr. Hughes wanted it done.<sup>35</sup>

Maheu assured Morgan that Hughes was satisfied that there would be no Justice Department objections.<sup>36</sup>

Morgan, assisted by Tom Bell, Hughes' personal lawyer in Las Vegas, negotiated with Morris Shenker, the St. Louis lawyer who represented the Dunes, and Sidney Wyman, casino manager at the Dunes. Shenker provided the Select Committee with documentation on the negotiations. The deal fell through in late May 1970.

The course of the negotiations themselves is unimportant, but several points are noteworthy. All participants agreed that financial considerations alone led to the breakoff of negotiations in late May 1970, shortly after the May 22 letter was sent to Judge Metzner.<sup>37</sup> Shenker

<sup>30</sup> Robert Maheu deposition, Jan. 29, 1973, vol. VII, in *Maheu v. Hughes Tool Co.*, Civ. No. 72-305-HP (C.D. Cal., filed Feb. 10, 1973), pp. 570-71; Maheu interviews, Jan. 20 and 21, 1974.

<sup>31</sup> Maheu interviews Jan. 20 and 21, 1974.

<sup>32</sup> Edward P. Morgan interview, Dec. 7, 1973.

<sup>33</sup> *Ibid.*

<sup>34</sup> McLaren interview, Dec. 6, 1973.

<sup>35</sup> Morgan deposition in *Maheu v. Hughes Tool Co.*, Apr. 3, 1973, pp. 84-85.

<sup>36</sup> Morgan interview, Dec. 5, 1973.

<sup>37</sup> Morgan interviews, Dec. 5 and 7, 1973; Shenker and Wyman interview, Dec. 20, 1973; Tom Bell interview, Dec. 17, 1973.

produced updated profit-and-loss figures on the Dunes,<sup>38</sup> which showed a substantial loss for the preceding months due to a loss of business during remodeling and an employees' strike.<sup>39</sup> Antitrust considerations played no part in the termination. In fact, Shenker and Wyman did not remember questions about the Justice Department's antitrust policy ever arising during the negotiations.<sup>40</sup> Morgan remembered Shenker once asking him if there would be any antitrust problems; Morgan told him that he, Morgan, had been assured there were none.<sup>41</sup>

On November 24, 1970, some 7 months after the negotiations between Hughes and the Dunes broke off, J. Edgar Hoover wrote a still unexplained memorandum<sup>42</sup> to the Attorney General, with copies to the Deputy Attorney General Richard Kleindienst and McLaren. Hoover reported that Hughes had renewed his interest in the Dunes and that Edward P. Morgan was implying to someone that the Antitrust Division would not object to the purchase. The late date of this memorandum makes no sense in terms of the statements and documentation the Select Committee has been given; because the FBI provided no further evaluation, the basis of this memorandum is still unexplained.

McLaren remembered receiving a copy of the memorandum, which to him did not constitute firm enough information to warrant initiating a preliminary inquiry.<sup>43</sup> McLaren did write a note<sup>44</sup> to Baddia Rashid, Director of Operations, when he received the Hoover memorandum. He asked Rashid which individual had worked on Las Vegas hotels earlier, saying that McLaren wanted to talk with him. It is not clear whether Rashid ever received the memorandum (note that his name is crossed out and replaced by the word "File" in McLaren's handwriting). Rashid remembered telling McLaren that Coyle was the Las Vegas hotel expert.<sup>45</sup> Having learned that, McLaren apparently did nothing. Neither he<sup>46</sup> nor Coyle<sup>47</sup> remembered discussing this second Hoover memorandum. Coyle remembered seeing the memorandum, the original of which was for some unexplained reason sent to California and routed to Coyle (that was presumably Mitchell's copy).

The memorandum may have been, in the juxtaposition of the following two paragraphs, Hoover's oblique way of asking Mitchell why there had been a change in the Department's position since the *Stardust* case:

It was reported that Morgan has strongly implied that there will be no objection from the Antitrust Division of the Department of Justice concerning Hughes' efforts to purchase another Las Vegas casino.

As you will recall the Antitrust Division objected to Hughes' attempt to purchase the Stardust Hotel-Casino in Las Vegas in 1968.<sup>48</sup>

<sup>38</sup> 26 *Hearings*, Dunes exhibit 54.

<sup>39</sup> Shenker-Wyman interview, Dec. 20, 1973.

<sup>40</sup> *Ibid.*

<sup>41</sup> Morgan interview, Dec. 5, 1973.

<sup>42</sup> 26 *Hearings*, Dunes exhibit 55.

<sup>43</sup> McLaren interview, Dec. 6, 1973; see also affidavit at 26 *Hearings*, Dunes exhibit 28A.

<sup>44</sup> 26 *Hearings*, Dunes exhibit 56.

<sup>45</sup> Rashid interview, Jan. 17, 1974.

<sup>46</sup> McLaren interview, Dec. 6, 1973. See also 26 *Hearings*, Dunes exhibit 28A, p. 6.

<sup>47</sup> Coyle interviews, Nov. 14, 1973; Jan. 10, 1974.

<sup>48</sup> 26 *Hearings*, Dunes exhibit 55.

Edward P. Morgan,<sup>49</sup> Robert Maheu,<sup>50</sup> and E. Parry Thomas,<sup>51</sup> the Las Vegas banker mentioned in the Hoover memorandum, denied that—as reported in the memorandum—they visited the SEC as a group to seek approval for a cash purchase of the Dunes by Hughes.

### C. CONCLUSION

In contrast to the immediately preceding case involving Hughes' hotel plans (the Landmark), the initial approach to the Justice Department on the Dunes was made directly to the Attorney General, not to the Antitrust Division. It was made by Richard Danner, the courier of \$100,000 to Rebozo, who was also a friend of Rebozo, Mitchell, and President Nixon. Although Danner and Mitchell contend that their discussions concerned antitrust questions regarding the hotel market in Las Vegas, Mitchell apparently did not invite his antitrust chief, Richard McLaren, to any of the meetings with Danner, advise him of the meetings, or submit Danner's statistical memorandum to the Antitrust Division for analysis. In fact, the Danner-Mitchell meetings were kept so secret that McLaren wrote his one memorandum to Mitchell on the Dunes 1 week after Mitchell gave Danner approval of the purchase.

As the evidence demonstrates, the apparent decision by Mitchell to approve the Dunes purchase is clothed with the appearance of impropriety:

1. Secret meetings were held in lieu of the existing procedures for providing appropriate antitrust analysis;
2. An ad hoc decision was made by the Attorney General which reversed the position of the professionals in the Antitrust Division, a position based upon considerable study and statistical analysis; and
3. Except for the fact that the purchase negotiations ultimately fell through for financial reasons wholly unrelated to antitrust considerations, this is a classic case of governmental decision-making for friends.

## VII. REBOZO'S 1972 CAMPAIGN FUNDRAISING ROLE

On December 20, 1973, Charles G. Rebozo testified in a civil deposition as follows: "I am not a fundraiser. I never have been."<sup>52</sup>

However, evidence before the Select Committee indicates that:

1. Rebozo solicited funds at the request of President Nixon.<sup>53</sup>
2. Rebozo opened and maintained an account at the Key Biscayne Bank & Trust Co. for the retention of 1972 campaign funds.<sup>54</sup>

<sup>49</sup> Morgan interview, Dec. 7, 1973.

<sup>50</sup> Robert Maheu interview, Jan. 21, 1974.

<sup>51</sup> E. Parry Thomas interview, Dec. 18, 1973. Thomas is chairman of the board of Continental Connectors, the company that owns the Dunes. He was aware of the Hughes-Dunes negotiations, but not of any communications between Hughes' agents and the Justice Department.

<sup>52</sup> Deposition of C. G. Rebozo in *Common Cause et al. v. Finance Committee To Re-Elect the President et al.*, Dec. 20, 1973, p. 21.

<sup>53</sup> 26 Hearings, exhibit 15. (The exhibits for the rest of this chapter are at the beginning of 26 Hearings.)

<sup>54</sup> 26 Hearings, exhibit 42.

3. Rebozo used his personal safe deposit box at the Key Biscayne Bank & Trust Co. to store cash campaign contributions for the 1972 campaign.<sup>55</sup>

4. Rebozo was aware of other "in kind" contributions and cash contributions.<sup>56</sup>

5. Rebozo personally handled at least \$190,000 in campaign contributions for the 1972 Presidential campaign.<sup>57</sup>

Rebozo's discussions with Richard Danner about a cash contribution from Howard Hughes began shortly after the 1968 election.<sup>58</sup> In addition, a memorandum from early 1969 states that Haldeman informed Ehrlichman that President Nixon asked Rebozo to contact J. P. Getty for purposes of soliciting "major contributions" to be controlled by the White House.<sup>59</sup> Edward L. Morgan has said that he was approached by John Ehrlichman in the spring of 1969 with the question of the legality of such a contribution from J. P. Getty.<sup>60</sup>

Mr. Rebozo testified that he contacted Mr. Getty and arranged an appointment for Herbert Kalmbach to solicit contributions at Mr. Kalmbach's request.<sup>61</sup> On March 21, 1974, Herbert Kalmbach testified that Rebozo had asked him to solicit funds from Mr. Getty for the 1970 senatorial campaign program.<sup>62</sup> Public documents from the Committee To Re-Elect the President reflect a contribution to the 1972 campaign of \$125,000 by Mr. Getty.<sup>63</sup>

Mr. Rebozo testified that he also arranged an appointment for Kalmbach with Mr. Raymond Guest to solicit contributions.<sup>64</sup> Public records reveal a \$200,000 contribution by Guest to the 1972 campaign to re-elect the President.<sup>65</sup>

On April 5, 1972, Mr. Rebozo opened an account at the Key Biscayne Bank & Trust Co. for the purpose of retaining 1972 campaign contributions,<sup>66</sup> entitled the "Committee for the Re-Election of the President" account. Rebozo stated that he opened the account "to beat the April 6 deadline with respect to a \$10,000 contribution which had been made."<sup>67</sup>

On April 6, 1972, Rebozo deposited \$10,000 in the account, which was later wired the same day to the Finance Committee To Re-Elect the President's account at the First National Bank of Washington, D.C.<sup>68</sup> The source of this contribution was Atlantic Investors of Miami, Ltd., partnership of Jay Kislak and Alec Courtelis.<sup>69</sup>

Rebozo's campaign account in the Key Biscayne Bank & Trust Co. also served as a repository after April 7, 1972, for \$29,740 in other campaign contributions. These contributions were finally transferred to the finance committee's main account in Washington, D.C., on

<sup>55</sup> 21 *Hearings* 9966-69.

<sup>56</sup> 26 *Hearings*, exhibit 43.

<sup>57</sup> This figure includes \$100,000 from Howard Hughes, \$50,000 from A. D. Davis, and nearly \$40,000 which went through the FCRP account at the Key Biscayne Bank & Trust Co.

<sup>58</sup> See section on delivery of the money, p. 944, *supra*.

<sup>59</sup> 26 *Hearings*, exhibit 15.

<sup>60</sup> See Morgan interview, June 3, 1974; see also interview of Charles Stuart, June 20, 1974.

<sup>61</sup> 21 *Hearings* 9974.

<sup>62</sup> 21 *Hearings* 10181-82.

<sup>63</sup> Paul Barrick interview, May 16, 1974, pp. 12-13.

<sup>64</sup> 21 *Hearings* 9974.

<sup>65</sup> See Paul Barrick interview, May 16, 1974, pp. 14-15.

<sup>66</sup> Deposition of Rebozo, *op. cit.* at note 52, p. 8.

<sup>67</sup> 26 *Hearings*, exhibit 44.

<sup>68</sup> 26 *Hearings*, exhibit 42.

<sup>69</sup> 26 *Hearings*, exhibit 45.

April 2, 1973. Rebozo was the recipient of each of these contributions that were forwarded to Washington, and he acknowledged the receipt of each contribution with a personal note.<sup>70</sup> Rebozo, however, did not forward to the campaign committee any portion of the \$100,000 cash contribution from Howard Hughes.

On December 20, 1973, Rebozo testified that he did not receive any other pre-April 7 campaign contributions besides the Hughes and Kislak contributions and "others that are reported."<sup>71</sup> However, only when 6 months later he was asked specifically about a contribution from A. D. Davis, did Rebozo acknowledge receipt of a \$50,000 cash contribution from the Davis brothers on "April 4 or 5," 1972.<sup>72</sup> This contribution from A. D. Davis and J. E. Davis was not reported in any records of the Finance Committee To Re-Elect the President,<sup>73</sup> nor was it deposited in the account Rebozo established for 1972 contributions.

Mr. A. D. Davis subsequently testified that he delivered \$50,000 in \$100 bills to Rebozo on April 5, 1972, which was intended only for President Nixon's 1972 reelection campaign.<sup>74</sup> Davis also testified he and Rebozo discussed the importance of the April 7 date and that Rebozo indicated to him that he would speak to the President about this contribution.<sup>75</sup>

Rebozo testified that he received the contribution from Davis, called the finance committee office in Washington, D.C., and that the finance committee dispatched Fred La Rue to Miami to pick up the contribution.<sup>76</sup>

In fact, La Rue testified that he did not discuss nor receive any campaign contributions from Rebozo until October 1972,<sup>77</sup> a full 6 months after the Davis contribution was received.

La Rue testified that he was contacted by Mr. John Kerr of the Nunn-for-Senate campaign in Kentucky in September 1972 concerning the possibility of sending additional funds from the Committee To Re-Elect the President to the Nunn campaign.<sup>78</sup> Mr. Kerr, however, denies any such request was made by him.<sup>78a</sup> La Rue testified he subsequently discussed the subject with former Attorney General John Mitchell, who had initially committed support to the Nunn campaign.<sup>79</sup> La Rue testified that Mitchell suggested that he contact Rebozo for possible funds.<sup>80</sup> When La Rue called him, Rebozo told La Rue that the funds were immediately available, and La Rue arranged to pick them up on his way back to Washington from his home in Jackson, Miss.<sup>81</sup> La Rue's travel vouchers from CRP indicate that his trip from Jackson to Miami to pick up the cash did not occur until October 12, 1972.<sup>82</sup> Finally a letter dated October 13, 1972, from Maurice Stans to Mr. A. D. Davis states, "Through Bebe Rebozo, I learned of the encourage-

<sup>70</sup> 26 *Hearings*, exhibit 46.

<sup>71</sup> Rebozo deposition, *op. cit.* at note 52, pp. 54-56.

<sup>72</sup> 21 *Hearings* 10117.

<sup>73</sup> See Barrick interview, May 16, 1974, p. 16.

<sup>74</sup> 22 *Hearings* 10565.

<sup>75</sup> *Ibid.*

<sup>76</sup> 21 *Hearings* 10117.

<sup>77</sup> 23 *Hearings* 11153.

<sup>78</sup> 23 *Hearings* 11152.

<sup>78a</sup> Kerr telephone interview, June 11, 1974.

<sup>79</sup> 23 *Hearings* 11152-53.

<sup>80</sup> *Ibid.*

<sup>81</sup> 23 *Hearings* 11153, 11163-64.

<sup>82</sup> 26 *Hearings*, exhibit 47.



ment you have indicated for this year's election." The letter makes no reference to any contribution from Mr. Davis.<sup>83</sup> La Rue testified that he picked up an envelope containing cash on that date from Rebozo and that he probably told Rebozo that the money would go to a "senatorial campaign" without specifying which one.<sup>84</sup>

La Rue said in an interview on April 9, 1974, that he received about \$25,000-\$30,000 from Rebozo in October. However, in subsequent sworn testimony, La Rue could not rule out the possibility that he received as much or more than \$50,000 from Rebozo.<sup>85</sup> However, the date on which La Rue picked the money up from Rebozo was more than 6 months after Rebozo received the cash contribution from A. D. Davis and Rebozo did not tell La Rue that the money he gave him was a contribution from A. D. Davis to the President's campaign. Further, there are no records of the contribution in Rebozo's campaign account.

La Rue testified that he returned to Washington, D.C., with the cash, and commingled it with the cash already in his file cabinet which was being used to pay the Watergate defendants.<sup>86</sup> La Rue testified that subsequently a courier for the Nunn campaign picked up a sum of cash of about the same amount that he had picked up from Rebozo during this campaign period in 1972.<sup>87</sup> The Nunn campaign, however, denies receiving any such cash.<sup>88</sup>

Several issues remain unresolved concerning the Davis contribution and related events. Furthermore, Mr. Rebozo refused to appear on June 26, 1974, pursuant to a subpoena and letter dated June 21, 1974,<sup>89</sup> from Chairman Ervin to clarify the record concerning these and other issues. Major outstanding issues, therefore, remain:

1. Why Mr. Rebozo failed to deposit the Davis contribution in the bank account opened expressly for the purpose of receiving pre-April 7 contributions?

2. When, if ever, did Rebozo notify the finance committee concerning his receipt of the Davis contribution?

3. Where did Rebozo store the cash in the period of time between the receipt of the money from Davis and his payment of funds to La Rue?

4. Were the funds that were turned over to La Rue in the same amount and the original bills given to Rebozo by A. D. Davis?

5. Were any funds furnished by Rebozo to La Rue paid to Watergate defendants, and did Rebozo have any knowledge of that?

## VIII. RETURN OF THE HUGHES CONTRIBUTION

George P. Shultz, Secretary of the Treasury, received a sensitive and confidential memo from Johnnie M. Walters, Commissioner of the Internal Revenue Service, on February 23, 1973.<sup>90</sup> The purpose of this

<sup>83</sup> 26 *Hearings*, exhibit 48. All other thank-you notes to FCRP donors of similar amounts obtained by the committee indicate acknowledgement was made by specific reference to the contributions.

<sup>84</sup> 23 *Hearings* 11163-64. Interview of Fred La Rue, Apr. 9, 1974, p. 3.

<sup>85</sup> 23 *Hearings* 11154.

<sup>86</sup> 23 *Hearings* 11154.

<sup>87</sup> La Rue interview, Apr. 9, 1974, p. 3.

<sup>88</sup> See affidavits of Governor Louie Nunn and John Kerr in committee files.

<sup>89</sup> Counsel to Rebozo has acknowledged to committee counsel that he received the chairman's letter. See also 26 *Hearings*, exhibit 55.

<sup>90</sup> Shultz interview, Jan. 24, 1974, p. 4. 24 *Hearings* 11648.

memo was to alert Secretary Shultz that the IRS investigative team had concluded that there was a need to interview Charles "Bebe" Rebozo.<sup>91</sup> Shultz sent this information to John Ehrlichman.<sup>92</sup> In this memo, Walters explained that the IRS had received testimony from Richard Danner about a political contribution Danner made on behalf of Howard Hughes to Rebozo.<sup>93</sup> While the IRS had received this testimony from Danner on May 15, 1972, a formal request to interview Rebozo was not made until February 23, 1973, 10 months later. Although field agents of the IRS had requested permission to interview Rebozo as early as the summer of 1972, these requests were not authorized until April of 1973. According to Walters, this delay resulted from a policy decision that he and other top-ranking officials within the IRS made during the summer of 1972.<sup>94</sup> The IRS had concluded that in an effort to conduct business as free of politics as possible, all matters that were politically sensitive would be postponed until after the 1972 elections.<sup>95</sup> When requests were made to interview Rebozo during the summer of 1972, these requests were postponed by Walters personally in accordance with the above policy.<sup>96</sup>

Requests from the IRS field agents to interview Rebozo came to Walters on a continuing basis.<sup>97</sup> On February 22, 1973, after the elections, Johnnie Walters discussed these requests with William Simon, who at that time was Deputy Secretary of the Treasury. Simon suggested that Walters compose a memo for Secretary Shultz, informing him of the need the IRS had to interview Rebozo. According to Walters, Simon told him that Secretary Shultz would be meeting with President Nixon later that day in Camp David and the IRS' request to interview Rebozo could be brought to the President's attention during this meeting.<sup>98</sup> At the time, the IRS wanted to talk with Rebozo only to verify information with regard to whether he had received \$100,000 from Danner.<sup>99</sup> Walters stated that the purpose of this memo was not to ask for permission but merely to alert the administration that Rebozo was to be interviewed by the IRS. Walters emphasized, however, that the request to interview Rebozo would be postponed until Walters himself received the go-ahead from Secretary Shultz.<sup>1</sup>

As of March 8, 1973, Walters still had not heard from Shultz concerning his request to interview Rebozo. Walters, therefore, spoke again with Simon to emphasize the need to interview Rebozo. Walters finally received approval from Shultz on April 7, 1973.<sup>2</sup>

Although Walters did not officially inform the White House of the IRS interest in Rebozo until February of 1973, the White House actually had received this information as early as the spring of 1972. Some time between March and June of 1972, a sensitive case report which mentioned the names of Don Nixon, Charles "Bebe" Rebozo, Larry O'Brien, and others involved in the Hughes investigation, was brought to John Ehrlichman's attention by Roger Barth who was an

<sup>91</sup> 24 *Hearings* 11648.

<sup>92</sup> Shultz interview, Jan. 24, 1974, p. 4. See also Barth executive session, 23 *Hearings* 11124, 11231.

<sup>93</sup> 24 *Hearings* 11648.

<sup>94</sup> 24 *Hearings* 11642-43.

<sup>95</sup> 24 *Hearings* 11641-42.

<sup>96</sup> 24 *Hearings* 11643.

<sup>97</sup> 24 *Hearings* 11647.

<sup>98</sup> 24 *Hearings* 11648.

<sup>99</sup> 24 *Hearings* 11649-50.

<sup>1</sup> 24 *Hearings* 11654.

<sup>2</sup> 24 *Hearings* 11650-51.

Assistant to the Commissioner of the IRS. Barth, in fact, provided a copy of the sensitive case report to Ehrlichman.<sup>3</sup> Barth testified that Ehrlichman requested to be kept informed as the case progressed and expressed specific interest in Larry O'Brien's involvement.<sup>4</sup> Ehrlichman recalls that he was continually receiving sensitive case reports concerning the Hughes investigation but that he did not tell Rebozo of the IRS interest in Rebozo until Barth requested him to do so.<sup>5</sup>

After Walters received a go-ahead from Shultz concerning the IRS request to interview Rebozo, Walters asked Barth to notify Rebozo of this.<sup>6</sup> Before notifying Rebozo, however, Barth first spoke with Ehrlichman to get his approval of this matter.<sup>7</sup> Ehrlichman has testified that when the sensitive case report came over:

\* \* \* it came over with a note from Barth saying that I need to talk to you about this and so I immediately called him and he said at that time "I need to have a green light on interviews of Rebozo \* \* \*." I said, "You know, OK, I think it is from my standpoint indicated. I will give you the green light if you are satisfied with that" \* \* \*.<sup>8</sup>

According to Barth, he met with Ehrlichman, and Ehrlichman showed him a copy of Walters' February 23, 1973, memo. Ehrlichman asked Barth if Rebozo was in trouble, and Barth explained that as far as he knew this was just a third-party interview and that the IRS was not planning to do an audit or a criminal investigation of Rebozo.

With these assurances, Barth has testified that Ehrlichman approved the interview. Ehrlichman has testified that because of the close relationship between Rebozo and the President, Barth was reluctant to call Rebozo directly. Ehrlichman, therefore, agreed to call Rebozo.<sup>9</sup>

Shortly after Rebozo was informed by Ehrlichman that the IRS wanted to interview him, Rebozo began to make a concerted effort to return the \$100,000. Rebozo testified that in March and April he attempted to contact Richard Danner to arrange for the return of the contribution.<sup>10</sup> Danner, however, does not recall any contacts between Rebozo and himself concerning the return of this money until May 1973.<sup>11</sup> While Rebozo discussed his decision to return Hughes' contribution with various people including the President, Rebozo has testified that the ultimate decision to return the money was his alone.<sup>12</sup>

Rebozo testified that after Hughes left Nevada in November 1970, and fired Maheu, Rebozo became very apprehensive about the Hughes contribution.

\* \* \* So as time went on I [Rebozo] just thought it better not to use that money for the 1972 campaign and try to see if things cleared up and to hold it for the 1974 or 1976, some point where I could turn it over to the properly appointed

<sup>3</sup> 23 *Hearings* 11222. Also see Ehrlichman executive session, 21 *Hearings* 9683.

<sup>4</sup> 23 *Hearings* 11222-29.

<sup>5</sup> 21 *Hearings* 9680.

<sup>6</sup> 24 *Hearings* 11652.

<sup>7</sup> 21 *Hearings* 9680. See also 23 *Hearings* 11222.

<sup>8</sup> 21 *Hearings* 9684.

<sup>9</sup> 23 *Hearings* 11231-32; 21 *Hearings* 10068-69; see also 21 *Hearings* 9680.

<sup>10</sup> 21 *Hearings* 10060-62. Also see Rebozo interview, Oct. 17, 1973, p. 18.

<sup>11</sup> 20 *Hearings* 9561.

<sup>12</sup> 21 *Hearings* 9988.

authority. But matters went from bad to worse with the Hughes organization \* \* \*.<sup>13</sup>

Rebozo was also very concerned that this Hughes contribution would be disclosed and then any association between Nixon's 1972 campaign and Howard Hughes would be a source of embarrassment to the President as it had in his 1960 campaign. Rebozo testified that:

\* \* \* I didn't want to risk even the remotest embarrassment of Hughes' connection with Nixon. I was convinced that (the Hughes loan to Don Nixon) cost the President the 1960 election and didn't help him in 1962 in California \* \* \*.<sup>14</sup>

Although Rebozo claimed that dramatic organizational changes within the Hughes organization caused him concern, he made no effort to discuss this in the context of the contribution with Danner or any other Hughes employee, nor did he seek advice from any administration or campaign officials. Finally when Ehrlichman told Rebozo that he was going to be interviewed by the IRS, Rebozo began to make a concerted effort to return the money. Although Rebozo said the contribution was for President Nixon he had been hopeful that this campaign contribution could be used in 1974 or 1976. Now, with the IRS requesting to interview him, Rebozo decided that the money could not be used for any campaign purposes and that the best course of action would be to return it.<sup>15</sup>

Rebozo has testified that he discussed the Hughes contribution with the President on two occasions prior to its return. The first conversation took place in Key Biscayne some time after the 1972 Presidential election. During this conversation Rebozo has stated that he "explained the whole picture" to President Nixon.<sup>16</sup> Rebozo testified that he could not recall what the President's reaction was to this information but stated that President Nixon did not offer any advice about whether or not the money should be returned.<sup>17</sup>

Rebozo's second conversation with President Nixon was in March or April 1973. This discussion occurred after Ehrlichman had told Rebozo that the IRS would be interviewing him. Rebozo has testified that during his second conversation with the President, Rebozo told him that he had decided to return the Hughes contribution and that President Nixon agreed with his decision.<sup>18</sup>

Rebozo has testified that the next conversation which he had was with Herb Kalmbach on April 30, 1973.<sup>19</sup> The Senate Select Committee has interviewed Rebozo three times and also questioned him in a 2-day executive session. While Rebozo in each of his sessions with the committee spoke freely about his conversation with Kalmbach on April 30, 1973, he never once asserted that his conversation related in any manner to information which he later claimed was protected by the attorney-client privilege.

Rebozo has testified that while he was in the West Wing of the White House on the morning of April 30, 1973, he ran into Kalmbach in

<sup>13</sup> 21 *Hearings* 9969.

<sup>14</sup> 21 *Hearings* 9986.

<sup>15</sup> 21 *Hearings* 10090.

<sup>16</sup> Rebozo interview, Oct. 17, 1973, p. 23. See 21 *Hearings* 10090. See also 21 *Hearings* 9994.

<sup>17</sup> 21 *Hearings* 10101.

<sup>18</sup> 21 *Hearings* 9994.

<sup>19</sup> Rebozo interview, Oct. 17, 1973, p. 20. 21 *Hearings* 10112. See also 21 *Hearings* 10187.

the halls. According to Rebozo, their meeting was not arranged and Rebozo was not seeking Kalmbach's advice. Rebozo testified that:

\*\*\* I think it was just a general discussion. You see, Kalmbach and I have numerous discussions, naturally on the San Clemente interest. He and I worked on the Yorba Linda House and Whittier property. We talked about things like that \*\*\* I believe I told him about [the Hughes contribution] \*\*\* he had been involved in fund raising and it wasn't going to be any secret. I guess I just felt the key people should know about it \*\*\*<sup>20</sup>

During an interview with the Senate Select Committee, on October 17, 1973, Rebozo stated that he did not ask Kalmbach for any advice or counsel concerning the return of the money because by—

\*\*\* April 30, 1973, the decision was already made. If I did ask, it was just for his opinion. As I recall, the part about the Hughes money was just an irrelevant part of the conversation \*\*\*<sup>21</sup>

Rebozo, during an executive session on March 20–21, 1974, testified that on April 30, 1973, he did ask Kalmbach for his judgment and Kalmbach told him he thought Rebozo should give it back. Rebozo does not recall discussing this topic again with Kalmbach.<sup>22</sup>

Kalmbach was also questioned on three occasions by the committee concerning his meeting with Rebozo on April 30, 1973. In each of these sessions with the committee, Kalmbach responded to specific questions about this meeting and indicated that it related to discussions concerning the refinancing of San Clemente, and the issue of whether the \$100,000 was used in the purchase of San Clemente. During these first three interviews with the committee, Kalmbach never asserted an attorney-client privilege concerning his meeting with Rebozo on April 30, 1973. On a fourth and fifth occasion, in an interview on March 8, 1974, and an executive session on March 21, 1974, Kalmbach, for the first time refused to testify with regard to this specific conversation because of attorney-client privilege.

Senator Ervin, however, on March 21, 1974, ruled that based on the above-described testimony of Rebozo, he and Kalmbach had not entered into a valid attorney-client relationship. Because of the significance of Kalmbach's testimony pursuant to Senator Ervin's instructions, it is set out at length, as follows:

\*\*\* sometime during the week of April 23, 1973, Bebe Rebozo called me at my office in Newport Beach, I think he was calling from Key Biscayne and told me he had a matter he wanted to discuss with me and asked when I would be next in the East. I told him I too had some items I wanted to go over with him and that I was scheduled to be deposed in Washington at 10 a.m. Monday, April 30, and perhaps we could meet sometime during my 1 or 2 day stay in the Capital \*\*\* [Rebozo] said he would be in Washington over the weekend and suggested that we get together Sunday evening, April 29 \*\*\*

<sup>20</sup> Rebozo interview, Oct. 17, 1973, p. 20. See also 21 *Hearings* 10111–12.

<sup>21</sup> Rebozo interview, Oct. 17, 1973, pp. 19–21.

<sup>22</sup> 21 *Hearings* 10112.

At about 7:30 on Monday morning, April 30, I took a cab from the Madison to the Pennsylvania Avenue front gate entrance of the White House \* \* \* The person on the desk called Bebe and announced my arrival and within 5 or 10 minutes, he came out and met me.

\* \* \* He decided we should use the Fish Room, which is just off the lobby. We went together and sat in the corner nearest the door.

\* \* \* After we had spent 10 or 15 minutes covering [various] points, Bebe went into the matter he wanted to discuss.

\* \* \* [Bebe] said the President had asked him to speak to me about this problem and not Maurice Stans. He said he had personally received \$100,000 in campaign contributions from Dick Danner representing Howard Hughes. He said that he had received two cash contributions of \$50,000 each in 1969 and 1970 \* \* \*

He said that the IRS had scheduled a meeting with him on this very subject, which would be held 2 or 3 weeks hence. He said that he had disbursed part of the funds to Rose Woods, to Don Nixon, to Ed Nixon and to unnamed others during the intervening years, and that he was now asking for my counsel on how to handle the problem.

In response to my questions, he reiterated that the money had been given to him as a contribution by Hughes, and that the expenditures he had made to the several individuals including Rose and to the President's two brothers had come from the Hughes cash.

I then said that my advice was that he should get the best tax lawyer he could find, and give him not only the entire story but also the balance of the Hughes cash for return to Hughes and a list of everyone to whom he had given money from these funds to which list should be attached, whatever backup could be obtained to show the use to which the funds had been put by the recipients. I said that he and his attorney should then lay out the facts of the matter exactly out to the IRS.

Bebe in reply to my advice expressed grave reservations about so doing for the stated reason that, "this touches the President and the President's family, and I just can't do anything to add to his problems at this time, Herb."

I then said I would like to check the validity of my advice with Stanley Ebner, who I identified as the then general counsel at OMB in the White House, indicating further that Stan had been counsel to Maurice Stans' Finance Committee during the 1972 campaign, and that he had begun his duties with Stans after the new finance law took effect on April 7, 1972.

Bebe was very queasy about me talking to anyone about this matter, and I assured him I would not mention his name to Stan, and would talk to him only on a hypothetical basis \* \* \*

Finally, Bebe agreed and we said goodbye to each other after agreeing to meet the next morning at 8:30 in the lobby of the West Wing of the White House. Immediately after

Bebe and I parted, I used the phone in the lobby and called Stan at his office in the Executive Office Building. I found him in, and in response to my request for a few minutes of his time, he suggested that I come right over.

I went over to Stan's office about 9 o'clock, and after a very brief exchange of amenities, I asked him to let me check my judgment against his as to special situation that had arisen. I then recounted the facts as earlier expressed to me by Bebe \*\*\*

Stan agreed completely with what I had advised Bebe, and expressed himself that he could not see any other course \*\*\*

I again met Bebe the next morning. I arrived by cab from the Madison and was in the lobby around 8:30. When Bebe came out to see me, I remember that he—wondered around the lobby floor looking for a private meeting place. Finally with Rose Woods along, we went into a small room on the ground floor of the West Wing. Rose left us, and we sat down behind a closed door.

I began recounting my visit with Stan, including his confirmation of my suggested course of conduct for Bebe to follow, and before I had completely finished, Bebe cut short further discussion of the matter with a somewhat baffling comment, that he saw no problem but he thanked me for my thoughts \*\*\*

Our entire conversation that Tuesday morning did not last longer than 15 or 20 minutes, and I recall that I left the White House around 9 a.m. \*\*\*<sup>23</sup>

Ebner has stated that he did meet briefly with Kalmbach on April 30, 1973. Ebner recalls that Kalmbach discussed a hypothetical situation at that time. Ebner cannot recall specific hypothetical facts furnished him since Kalmbach apparently discussed hypothetical situations with him on a number of occasions.<sup>24</sup>

In a sworn affidavit, James O'Connor, Kalmbach's attorney, stated that following the meeting with Rebozo, Kalmbach immediately told O'Connor all of the details of this meeting including the fact that Rebozo had disbursed some of the \$100,000 Hughes campaign contribution to Rose Mary Woods and the Nixon brothers.

In October 1973, after Kalmbach was interviewed by the committee, O'Connor dictated a brief memo to his secretary, Margaret Blakely, which he then asked her to read over the telephone to Rebozo. The purpose of this memo was to inform Rebozo that Kalmbach had acknowledged to the Senate Select Committee that he had met with Rebozo on April 30, 1973, that he testified that the prime purpose of the meeting was to review certain matters involving the President's personal affairs, and indicated that Kalmbach had not given any additional information concerning this meeting to the committee.<sup>25</sup>

On January 25, 1974, O'Connor once again asked his secretary to call Rebozo and tell him that if Kalmbach was pressed as to any details of a conversation between himself and Rebozo on April 30,

<sup>23</sup> 21 *Hearings* 10189-90.

<sup>24</sup> Ebner interview, Apr. 15, 1974, p. 1.

<sup>25</sup> O'Connor affidavit, May 14, 1974, see 26 *Hearings*, exhibit 49.

1973, and/or May 1, 1973, that he would state that the discussions were pursuant to the attorney-client relationship.<sup>26</sup>

Margaret Blakely has also provided a sworn affidavit to the committee that on two occasions she was requested by O'Connor to contact Rebozo. According to Blakely, both O'Connor and Kalmbach felt it best if she contacted Rebozo rather than either of them and that if Rebozo had any questions, she would attempt to get the answers for him. During her first conversation with Rebozo, in October 1973:

\* \* \* she was simply advising him that Mr. Kalmbach was asked on October 12 by Mr. Lenzner to furnish the number and location of all bank accounts in the name of the President and on which he was signatory; that Mr. Kalmbach was concerned about any possible violation of the attorney-client privilege; that Mr. Kalmbach was questioned by the Special Prosecutor's office and by Mr. Lenzner on October 11 and 12 as to a meeting on April 30 with Mr. Rebozo and Mr. Kalmbach acknowledged the meeting took place at or about that time; Mr. Kalmbach further advised both investigative bodies that the prime purpose of the meeting was to review certain matters involving the President's personal affairs, including the sale of the Whittier property and the refinancing of the San Clemente property, among other things, that Mr. Kalmbach was disturbed about reports that campaign funds were used in the acquisition of the San Clemente property \* \* \*.<sup>27</sup>

Blakely's second conversation with Rebozo was on January 25, 1974. At this time she told him:

\* \* \* if Mr. Kalmbach is pressed as to any details of a conversation between himself and Mr. Rebozo on April 30 and/or May 1, he of course would have to tell the truth; that in the unlikely event he is pressed on this matter, he will of course state that these discussions were pursuant to the attorney-client relationship and therefore subject to the attorney-client privilege \* \* \*.<sup>28</sup>

Blakely indicated that during both of her conversations with Rebozo, he made no comment and had no questions.

Although Rebozo has denied any other conversations with Kalmbach concerning this matter, Kalmbach has testified that:

\* \* \* A third meeting was held with Bebe on Tuesday morning, January 8, 1974. He and I had talked by telephone once or twice after he arrived in San Clemente to be with the President during his stay in California. Never at any time during these telephone conversations did Bebe mention directly or indirectly our discussions in the White House on April 30, May 1.

And finally he called and asked me to meet with him on Tuesday, January 8. I agreed to meet him at 8:30 in the morning at the mess at the Western White House. On that date when I arrived at the gate, the guard told me that Mr. Rebozo had left word that I should proceed directly to the guest house in the living compound. This I did and arrived at the

<sup>26</sup> *Ibid.*

<sup>27</sup> Blakely affidavit, May 15, 1974, see 26 *Hearings*, exhibit 50.

<sup>28</sup> *Ibid.*



guest house which is directly across a court from the President's quarters at 8:30.

When I entered the guest house, Bebe told me the reason he had switched our meetingplace was because he had learned that a great number of the press were over at the offices, and we would be afforded greater privacy within the compound. Our meeting lasted for about 1 hour and 15 minutes and ranged across a number of subjects. \* \* \*

At one point somewhat near the end of the meeting, Rebozo said words to me to the effect that:

"Undoubtedly, Herb, I have not told you that after you and I talked last spring regarding the Hughes money, I found that I had not in fact disbursed any of the Hughes cash to the several people I named. When I went into the safe deposit box, I found that the wrappers around the cash had not been disturbed, and so it was clear that no part of this money had been used during the several years it was in my box."

I didn't make any comment at all to Bebe when he made this statement other than to acknowledge what he had said.

We then went on to other items on the agenda, and I left him around 9:45 and drove up to Los Angeles \* \* \*.<sup>29</sup>

In late April or early May 1973, Rebozo called William E. Griffin and asked Griffin to fly to Florida to discuss a problem that Rebozo had. Rebozo did not indicate what the problem was except that he had something he wanted to discuss with Griffin that was very important. Griffin met with Rebozo in Florida on May 3, 1973, where Rebozo told him for the first time of the Hughes \$100,000 campaign contribution. According to Griffin, Rebozo told him that he had received two \$50,000 cash campaign contributions from Richard Danner. These contributions were made in 1969 and 1970. Rebozo also explained to Griffin that he had maintained the \$100,000 in a safe deposit box and that he still had the identical bills which Danner had earlier given to him. Rebozo's concern at this time was how he should handle the matter with the IRS.<sup>30</sup>

Griffin testified that he did not offer any advice to Rebozo during the May 3, 1973, meeting because he wanted an opportunity to research certain problem areas which he felt Rebozo may have had concerning his retention of the \$100,000. Griffin stated he told Rebozo he was concerned with problems of unreported income, gift tax, campaign statutes, and the election statutes. Griffin testified he could recall that Rebozo stressed that the bills in his safe deposit box were the exact same bills he received from a Hughes representative in 1969 and 1970.<sup>31</sup>

Griffin testified he returned to New York to do some research for Rebozo. In early May 1973, Griffin met again with Rebozo at Key Biscayne. Griffin testified he told Rebozo that he should immediately obtain an independent individual who could act on Rebozo's behalf to count the money, identify the bills, verify that the money was in a safe deposit box, and that this individual should arrange for the return of the money. Rebozo, according to Griffin, accepted his advice and asked Griffin if he could act on Rebozo's behalf. Griffin declined

<sup>29</sup> 21 Hearings 10191.

<sup>30</sup> 22 Hearings 10428-32.

<sup>31</sup> 22 Hearings 10432-33.

because of his close association with Robert Abplanalp who was also a very close friend of the President's. Griffin felt that any representation that he made on Rebozo's behalf would be tainted with partisanship.<sup>32</sup>

According to Rebozo, he did discuss the return of the Hughes contribution with William Griffin. Rebozo, however, did not recall ever asking Griffin to act in Rebozo's behalf to facilitate the return of the money, nor could Rebozo recall any specific advice Griffin offered to him concerning the need for an independent third party to arrange for the return of the money. Rebozo does recall that Griffin did some research for him and then later advised Rebozo to turn the money back.<sup>33</sup>

On May 10, 1973, Rebozo was interviewed by IRS agents Donald Skelton and Albert Keeney. The agents explained to Rebozo that they were investigating the Hughes Tool Co., Robert A. Maheu, John Meier, and other people associated with the Hughes association, and that their purpose of interviewing Rebozo was to verify some information that they had received concerning a campaign contribution which had allegedly been given to Rebozo by Richard Danner. Rebozo told the agents that he had, in fact, accepted a contribution from Richard Danner and that he still had the money in a safe deposit box. According to the IRS, Rebozo stated that the only persons who knew of the Hughes contribution were Rebozo and the agents. Rebozo also told the IRS that he had considered contacting Danner in an effort to return the money but did not do so because he feared additional publicity.<sup>34</sup> Rebozo has testified that he cannot recall when he first told Danner that he wanted to return the money but stated he believed he told him in March or April 1973.<sup>35</sup> Rebozo, however, later testified that it was not until after his May 10, 1973, interview with the IRS that he actually tried to contact Danner to ask him to take the money back.<sup>36</sup>

Danner has stated that he met with Rebozo in Las Vegas, April 1973, but that this meeting was purely social.

According to Danner, there were no discussions about the return of the Hughes contribution at this time.<sup>37</sup> Danner has testified that he specifically recalls the first conversation he ever had with Rebozo concerning this matter took place over the weekend of May 18-20, 1973.<sup>38</sup> Rebozo also recalls meeting with Danner at this time and discussing the return of the Hughes contribution.<sup>39</sup>

During an executive session with the committee, Rebozo testified as follows concerning his May 18-20, 1973, meeting with Danner:

1. Over the weekend of May 18-20, 1973, Rebozo stayed at the Madison Hotel where he met with Danner and discussed the return of the Hughes contribution.

2. According to Rebozo, both he and Danner were in Washington to attend some social function but Rebozo cannot remember what it was. Rebozo did not request Danner to come to Washington.

<sup>32</sup> 22 *Hearings* 10438-40.

<sup>33</sup> 21 *Hearings* 10064.

<sup>34</sup> IRS interview of Rebozo, May 10, 1973, pp. 1-4.

<sup>35</sup> 21 *Hearings* 9994. See also Rebozo interview, Oct. 17, 1973, p. 18.

<sup>36</sup> 21 *Hearings* 10104.

<sup>37</sup> 20 *Hearings* 9561. See also 24 *Hearings* 11433.

<sup>38</sup> 20 *Hearings* 9546-47.

<sup>39</sup> 21 *Hearings* 10104.

3. In addition to discussing the return of the Hughes contribution, Rebozo and Danner also discussed the political feelings on the west coast concerning Watergate.

4. Rebozo left Washington on May 19, 1973, to join President Nixon at Camp David. On May 20, 1973, Rebozo invited Danner to come to Camp David and discuss with the President what the political feelings were on the west coast. Rebozo arranged for a White House limousine to pick Danner up and drive him to Camp David.

5. Danner met with Rebozo for approximately one-half hour before the President joined them. Prior to the President's arrival, Danner and Rebozo discussed the return of the Hughes contribution. Throughout the weekend, Danner refused to accept the return of the Hughes contribution but promised Rebozo he would talk to his superiors and arrange for it to be returned.

6. The President joined Danner and Rebozo, in Rebozo's cabin at Camp David and remained with them for approximately 5 to 10 minutes. During their conversation, there was no mention of the return of the Hughes contribution. The only subject which Danner discussed with President Nixon was the political mood on the west coast concerning Watergate.

7. After the President left, Danner and Rebozo visited for a short while and then Danner returned to Washington.

8. On May 18, 1973, Danner, Rebozo, and Mr. and Mrs. Abplanalp, flew to the Adirondack Fisheries in Abplanalp's private jet and had lunch. After lunch, Danner and Rebozo returned to Washington. While they were with the Abplanalps, there was no discussion whatsoever concerning the Hughes contribution.<sup>40</sup>

Danner testified as follows concerning his May 18-20, 1973, meeting with Rebozo:

1. Danner met with Rebozo in Washington during the weekend of May 18-20, 1973 at Rebozo's specific request that he do so.

2. Danner met with Rebozo at the Madison Hotel and during this meeting Rebozo told him for the first time that he wanted to return the \$100,000 Hughes contribution. This information came as a complete surprise to Danner.

3. Danner refused to take the money back because he felt it wasn't his money to accept. Danner promised Rebozo that he would make the necessary inquiries to determine who the money should be properly returned to. During this weekend, there were extensive conversations between Danner and Rebozo concerning the return of the Hughes contribution.

4. Danner has testified that he also spoke with Rebozo about the political feelings on the west coast concerning Watergate. Rebozo asked Danner if he would stay over and come to Camp David on the following morning. Danner agreed.

5. On May 20, 1973, Danner met with Rebozo at Camp David and prior to the President's arrival discussed the return of the Hughes contribution. Danner once again refused to accept the return of the money.

<sup>40</sup> 21 *Hearings* 10101-2, 10110.

6. After the President joined Danner and Rebozo, in Rebozo's cabin, there were no discussions of the Hughes contribution or any other campaign contributions. During their meeting, Danner expressed to the President what the political feelings were on the west coast. After the conversation, the President took Rebozo and Danner on a brief tour of Camp David.

7. Danner's meeting with the President and Rebozo lasted for one to one and a half hours.

8. After the President left, Danner and Rebozo had lunch together and then Danner returned to Washington.

9. Danner testified that he has never discussed the Hughes contribution with President Nixon.

10. On May 18, 1973, Danner, Rebozo, and Mr. and Mrs. Abplanalp flew to the Adirondacks in Abplanalp's private jet to have lunch. While the four were together, there were no discussions concerning the Hughes campaign contribution.<sup>41</sup>

Deputy Press Secretary Gerald L. Warren, in a statement made to the press on January 26, 1974, stated that:

\* \* \* Mr. Danner was in Washington to talk with Mr. Rebozo and did pay a brief visit to the President at Camp David. The meeting lasted only 5 or 10 minutes and Danner reported on the mood of the people in the West \* \* \*<sup>42</sup>

General Haig testified that while he was not aware at the time that Danner and Rebozo met with President Nixon at Camp David on May 20, 1973, he learned of it when it became a public relations issue in the White House. Haig discussed this matter with Ron Ziegler who informed him that the purpose of the meeting at Camp David was to enable Danner to express his support for the President at a time when the President had been under heavy attack. Ziegler stated to Haig that he had discussed this meeting with President Nixon. Haig felt confident that Ziegler " \* \* \* was on top of the matter and had the details."<sup>43</sup> Ziegler has stated that he consulted with both the President and Rebozo to confirm that the May 20, 1973, Camp David meeting was only 5 or 10 minutes long.<sup>44</sup>

Warren stated that Ziegler confirmed that Rebozo and Danner had met with President Nixon at Camp David for 5 or 10 minutes. Warren did not check either the Cardex or the Presidential logs to determine the length of the meeting.<sup>45</sup>

Danner, in subsequent testimony to the Senate Select Committee, has reconfirmed his testimony that the meeting he attended with President Nixon and Rebozo lasted at least 1 hour.<sup>46</sup>

Abplanalp has stated that he had no knowledge of the \$100,000 Hughes contribution which Rebozo received from Danner. Abplanalp recalls that he has only seen Danner three times in his life. The third

<sup>41</sup> 20 *Hearings* 9546-48. See also 24 *Hearings* 11434-35. See also Madison Hotel records, May 17-20, 1973, at 26 *Hearings*, exhibit 51; neither Danner nor Rebozo mentioned this meeting in staff interviews until the committee obtained hotel records which showed that they were both at the Madison Hotel during this time.

<sup>42</sup> Washington Post, Jan. 26, 1974, p. A-12.

<sup>43</sup> 23 *Hearings* 11005-6.

<sup>44</sup> Ziegler interview, June 24, 1974.

<sup>45</sup> Warren interview, Feb. 26, 1974, p. 8.

<sup>46</sup> 24 *Hearings* 11472. See also 20 *Hearings* 9549.

time was in May 1973. Abplanalp has never had any conversations with Danner concerning the Hughes contribution.<sup>47</sup>

Shortly after the May 20, 1973, Camp David meeting, Rebozo told Haig of his involvement in the Hughes contribution. This is the only conversation Rebozo recalls having with Haig concerning the Hughes contribution.<sup>48</sup>

Haig testified that Rebozo did tell him of the Hughes contribution, and his involvement with it. Haig did not counsel Rebozo to return the money.<sup>49</sup>

On May 23, 1973, William Simon received a telephone call from General Haig. Haig, at this time, requested an update of information concerning the Hughes contribution which Rebozo received. Simon recalled that this information had been given to the White House long ago since Rebozo's name had appeared on sensitive case reports. After the time of Haig's telephone call, Simon called Don Alexander, Commissioner of the IRS and asked for an update on the IRS investigation into the Hughes \$100,000 contribution to Rebozo. Alexander immediately sent a memo to Simon which detailed the facts of the case. After receiving this memo, Simon called General Haig to inform him that Rebozo was going to be investigated by the IRS concerning his involvement with the Hughes contribution. Simon stated that he thought this was a matter Simon should discuss with the White House counsels, Buzhardt and Garment.<sup>50</sup>

After Simon's conversation with Haig on May 23, 1973, Simon testified he discussed with Len Garment the status of the IRS investigation of Rebozo. During his conversation with Garment, Simon used the memo that Alexander had previously supplied to him. According to Simon's log, he was in contact with General Haig, Len Garment, and Don Alexander on May 23, 1973.<sup>51</sup>

Sometime after May 23, 1973, Haig met with White House counsels Garment, Chapman Rose, and Fred Buzhardt to be briefed on the IRS investigation of Rebozo. This meeting took place in Haig's office. It was decided that Haig should inform the President of this investigation since it was a matter which could be potentially embarrassing to the President. It was also decided that there should be no discussions between White House counsel and Rebozo concerning the IRS investigation. Garment suggested to Haig that Rebozo should get a qualified tax attorney, and that if Rebozo needed a recommendation Garment would provide one.<sup>52</sup>

Haig testified he thereafter met with President Nixon to brief him on the IRS investigation of Rebozo. Haig told the President that the White House counsel felt that Rebozo should have a competent tax attorney and that if necessary they could suggest someone for him. The President told Haig to "tell them to do so." It was Haig's general impression that the information he furnished President Nixon concerning the IRS investigation of Rebozo did not come as news to President Nixon. Haig stated "[President Nixon] just shrugged it

<sup>47</sup> Abplanalp interview, Nov. 1, 1973, p. 41. See also 26 *Hearings*, exhibit 51.

<sup>48</sup> 21 *Hearings* 10109.

<sup>49</sup> 23 *Hearings* 11006-8.

<sup>50</sup> 23 *Hearings* 10928-36, 10999. See also Simon's logs, 26 *Hearings*, exhibit 52.

<sup>51</sup> 23 *Hearings* 10930-35, 11059-63.

<sup>52</sup> 23 *Hearings* 10999-11001, 11064-66.

off, and as a matter of fact, handled it with a number of ongoing problems that [Haig] was discussing at the time.”<sup>53</sup>

Two or three days later, Haig told President Nixon that Garment had recommended Kenneth Gemmill as a possible attorney for Rebozo. The President then told Haig to give this name to Rebozo on the following weekend when both Haig and President Nixon would be in Key Biscayne.<sup>54</sup>

On the following weekend, which would be either the last weekend in May or the first weekend in June 1973, Haig gave the name and address of Kenneth Gemmill to Rebozo. Haig testified that “[a]t that time Mr. Rebozo took it and said he did not know what he would do with it, but he obviously was well aware at that time of the IRS interest in the Hughes \$100,000, there is no question about it.”<sup>55</sup> Rebozo has testified that someone in the White House suggested Kenneth Gemmill to him as a good tax attorney. “I had heard of [Ken Gemmill] before and I had been told when all of this business started that I would probably need Washington counsel. So I got hold of him.”<sup>56</sup>

On June 8, 1973, Gemmill received a telephone call from Rebozo. Gemmill testified that Rebozo told him that “Garment says that I should come see you about a problem.” Rebozo did not give any details to Gemmill concerning his problem at this time. He merely set up an appointment to see Gemmill on June 11, 1973.<sup>57</sup>

Both Gemmill and Rebozo have testified that they met on June 11, 1973, in Gemmill’s Philadelphia office. During this meeting, Rebozo explained to Gemmill that he had been interviewed by two IRS agents concerning the \$100,000 campaign contribution. Rebozo then described to Gemmill the events surrounding his acceptance of the \$100,000. Gemmill has testified that at no time did Rebozo ever indicate to him that Rebozo had consulted with other lawyers.<sup>58</sup>

Gemmill recalled that on June 12, 1973, he also called Len Garment to tell him that Rebozo had been in to see him. Gemmill recalled that Garment said, “I am glad he is in good hands. You handle him as a privileged client and do not tell me anything about it. [Gemmill] said I am to handle him as a privileged client, and [Garment] said ‘yes, do not tell me anything about it,’ and that was the end of that.”<sup>59</sup> General Haig recalls that during a subsequent conversation he had with Garment, Garment had told him Gemmill had been contacted by Rebozo to represent him in the IRS matter.<sup>60</sup>

Gemmill stated that on June 18, 1973, he called Rebozo and told him that he and Wakefield should go to the safe-deposit box which they held jointly that contained the \$100,000 Hughes contribution. Both Wakefield and Rebozo were to count the \$100,000 and make a list of the serial numbers from each of the bills to be used as a receipt and also a way to identify the bills that were returned. Rebozo asked Gemmill if he thought it would be advisable to have someone from the Government there, such as the head of the FBI in Miami, to witness

<sup>53</sup> 23 *Hearings* 11001.

<sup>54</sup> 23 *Hearings* 10999.

<sup>55</sup> 23 *Hearings* 11000.

<sup>56</sup> 21 *Hearings* 10061.

<sup>57</sup> 23 *Hearings* 11174.

<sup>58</sup> 23 *Hearings* 11174-75.

<sup>59</sup> 23 *Hearings* 11175.

<sup>60</sup> 23 *Hearings* 10999-11000.

this operation. After some consideration, Gemmill told Rebozo that it was a good idea since an FBI agent may be able to determine whether the money has been in the same location for a given period of time.<sup>61</sup>

Kenneth Whitaker, SAC-Miami, FBI, has testified that Rebozo called him on June 18, 1973, and offering no explanation, asked him to come to the bank immediately. At around 10 a.m., Whitaker met with Rebozo and Wakefield at the Key Biscayne Bank. Rebozo then explained to Whitaker that in 1969 or 1970 he had received \$100,000 in campaign contributions from Danner, a representative of Howard Hughes. Rebozo told Whitaker that this contribution was placed in a bank vault and had never been used or disbursed. Whitaker has testified that Rebozo wanted him to see if he could determine the age of the money.

After discussing the money, Rebozo, Wakefield, and Whitaker joined Margaret Barker, Rebozo's sister, and entered the bank vault. Each of them signed the access card and then Rebozo removed the safe-deposit box. Whitaker has stated that the safe-deposit box had two large brown envelopes, the contents of which Rebozo emptied on the tables. These envelopes contained 10 to 12 packets of money approximately three-quarters of an inch thick. These packets were all \$100 bills and appeared to be new. Whitaker has stated that after he saw the money he told Rebozo that there was no way he could determine the age of the bills. Whitaker stated that he did initial six or seven of the \$100 bills in the upper lefthand corner for identification purposes only.<sup>62</sup>

After they had completed counting the money and making a list of serial numbers, they discovered that there was an extra \$100 bill. Rebozo called Kenneth Gemmill to tell him that the list had been completed. Gemmill suggested that Rebozo try to contact Danner and that both of them should be in Philadelphia the following morning.<sup>63</sup>

On June 19, 1973, Rebozo met with Gemmill in Philadelphia. Danner, however, did not show up. Gemmill stated that in a telephone call Danner said that Chester Davis would call. When Davis did call, Gemmill explained to Davis that Rebozo wanted to return the Hughes contribution. Gemmill and Davis agreed to meet in Washington, D.C., on June 21, 1973.<sup>64</sup>

After Gemmill's conversation with Davis, Rebozo told Gemmill that he had the money with him in a briefcase. Since Gemmill was not willing to accept responsibility for the money, Rebozo decided to bring it with him to New York and have Griffin hold it until its return could be arranged. Rebozo then gave Gemmill Griffin's name and telephone number and asked him to contact Griffin after a date was arranged for the return of the money. Gemmill agreed.<sup>65</sup>

Rebozo has testified that later that afternoon he met with Griffin at the Hudson Valley National Bank in Yonkers, N.Y. Rebozo ex-

<sup>61</sup> 23 *Hearings* 11176. See also 21 *Hearings* 9970-71.

<sup>62</sup> Whitaker interview, Nov. 20, 1973, pp. 2-3. FBI Director Kelley, in a letter which he wrote to the Commissioner of the IRS, stated Whitaker had reported to him that Danner had given Rebozo this money in 1969 for congressional elections. See also 21 *Hearings* 9971-73.

<sup>63</sup> 23 *Hearings* 11176-77. See also 21 *Hearings* 9970.

<sup>64</sup> 23 *Hearings* 11176-77. See also Danner logs, June 1973, 26 *Hearings*, exhibit 53. See also 21 *Hearings* 10060-61.

<sup>65</sup> 21 *Hearings* 10060. See also 23 *Hearings* 11177.

plained to Griffin that he had just left a meeting in Philadelphia with Gemmill where he had hoped to return the money. Rebozo's efforts, however, were frustrated, and he wanted Griffin to hold it until its return could be arranged. Griffin agreed to hold the money in his safe-deposit box at the Hudson Valley National Bank. Griffin testified that while Abplanalp was in the area during this conversation, he didn't hear it. Rebozo assured Griffin that within the next few days he would receive a call from Ken Gemmill who would tell him when the money should be returned and where.<sup>66</sup>

On June 21, 1973, Gemmill has testified that he met privately with Chester Davis in Davis' room at the Madison Hotel. After reviewing Danner's statement to the IRS, Gemmill and Davis discussed the discrepancies between Danner's and Rebozo's recollection of the delivery of the money. Gemmill has stated that as far as he was concerned, none of these discrepancies affected the return of the money.

Davis agreed to arrange for the return of the money and promised to be in contact with Gemmill within a few days.<sup>67</sup>

Gemmill has stated that on Monday, June 25, 1973, Davis called and told him that the money could be returned to the Marine Midland Bank, 140 Broadway, New York City, N.Y., on Wednesday, June 27, 1973. Since Davis was planning on being out of town on June 27, 1973, he told Gemmill that Walter Glaeser, the office manager at Davis' law firm, would accept this money on behalf of Howard Hughes, and, as previously agreed upon, the money would remain in a safe-deposit box until IRS agents had an opportunity to examine it.<sup>68</sup> Gemmill called William Griffin and asked him to meet in New York on June 27, 1973, at the Marine Midland Bank. Since Griffin and Gemmill had not met, Gemmill agreed to produce a copy of the list of the bills which Rebozo, Wakefield, and Barker had prepared earlier as a form of identification.<sup>69</sup>

Griffin met with Gemmill and Glaeser at the Marine Midland Bank on June 27, 1973. After Gemmill provided him with the receipt which Rebozo had earlier prepared, Griffin turned the money over to them. After a brief discussion, Griffin left.<sup>70</sup>

After Griffin's meeting at the Marine Midland Bank, he called Rebozo to tell him the money had been returned.<sup>71</sup> Rebozo has testified that shortly thereafter, Rebozo told the President that the Hughes contribution had been returned and the President once again assured Rebozo that that was the right thing to do.<sup>72</sup>

## IX. THE IRS INVESTIGATION OF REBOZO

The evidence set forth below indicates that the Internal Revenue Service investigation of Rebozo:

- was postponed several times
- was handled through oral rather than the normal written reports
- included advance notice to the President and Rebozo

<sup>66</sup> 22 *Hearings* 10453-57. See also 21 *Hearings* 10061.

<sup>67</sup> 23 *Hearings* 11177-78. See also 20 *Hearings* 9407-10.

<sup>68</sup> 23 *Hearings* 11177-78.

<sup>69</sup> 22 *Hearings* 10456-57. See also 23 *Hearings* 11178.

<sup>70</sup> 22 *Hearings* 10457. See also 23 *Hearings* 11178. Gemmill has provided the committee with copies of the envelopes which held the money.

<sup>71</sup> 22 *Hearings* 10458.

<sup>72</sup> 21 *Hearings* 10062.



- did not inquire into the relevant periods given in testimony and evidence available
- allowed Rebozo's attorney, rather than the IRS, to obtain information from third-party witnesses
- did not include additional interviews with Rebozo even after IRS had learned Rebozo had altered his previous statements
- included notice to Rebozo that the IRS did not intend to pursue any criminal investigation of the matter
- included notice by the IRS to Rebozo and his attorney that the Special Prosecutor's Office had sought and obtained disclosure of evidence regarding Rebozo
- involved use of extra personnel at the request of the taxpayer

The Internal Revenue Service first learned of a relationship between Charles G. Rebozo and the Hughes Tool Co. in December of 1971, during the investigation of John H. Meier. Meier, an employee of Robert Maheu, had allegedly received millions of dollars from the fraudulent sales of mining claims to Hughes. Because of Meier's relationships with a variety of political figures, including F. Donald Nixon and Edward Nixon, IRS sensitive case reports were prepared on a monthly basis relating information to alert IRS officials and the Secretary of the Treasury of an IRS investigation that might touch upon prominent and, therefore, newsworthy individuals.<sup>73</sup> Former Secretary of the Treasury Shultz determined whether information from the sensitive case reports should be brought to the President's attention.

The December 1971, sensitive case report indicated that Mr. Rebozo had instructed Meier to be unavailable for an IRS interview because it was feared Meier might disclose his association with Donald Nixon in connection with the sale of mining claims and rebates from the claims. Former Commissioner of IRS Johnnie M. Walters stated to the committee that he advised Secretary of the Treasury, John Connally, on March 3, 1972, of the allegations relating to Rebozo's advice to Meier to "make himself unavailable."<sup>74</sup>

In addition to the Meier investigation, the IRS was also conducting an intensive investigation of the Hughes organization that was described by former Commissioner Walters: "This Hughes project, investigation, was a mammoth undertaking because the Hughes organization is so diverse and so widespread that we required a substantial number of agents, special agents, and others to carry on the investigation. I forget, but I have a recollection that at one point we had approximately 50 people on this thing; and I could see it going on forever."<sup>75</sup>

As part of the above investigation, special agents of the IRS interviewed Danner on May 15, 1972, in the offices of the Hughes Tool Co. in Houston, Texas. On that occasion, the IRS received testimony under oath from Danner that he had, in fact, delivered two packages containing a total of \$100,000 in cash to Charles G. Rebozo. Examination by this committee of sensitive case reports provided by the IRS reflects no mention of the information received concerning the receipt by Rebozo of the \$100,000 until an entry on April 26, 1973, which

<sup>73</sup> Interview of George Shultz, Jan. 24, 1974. Shultz indicated in the interview that he felt the sensitive case reports were a good check system so that the IRS would be aware that the handling of prominent individuals would be scrutinized by the public.

<sup>74</sup> 24 *Hearings* 11628.

<sup>75</sup> 24 *Hearings* 11631.

referred to a telephonic contact made by the IRS with Rebozo. The sensitive case reports do reflect, however, on a continuing basis, information relating to amounts paid to former chairman of the Democratic National Committee, Larry O'Brien, from the Hughes Tool Company, pursuant to a contract. Former Commissioner Walters recalls Mr. Rebozo's name surfacing in the late spring or early summer of 1972 and a request by the IRS to interview both Rebozo and F. Donald Nixon with regard to matters previously mentioned. However, Walters stated that he decided, as is reported more completely in this report elsewhere, that the policy of the IRS should not be to interview sensitive political figures during the campaign year of 1972.<sup>76</sup> It is also pertinent to note, however, the IRS policy did not prohibit the continued investigation of Larry O'Brien after communications were received from John Ehrlichman.<sup>77</sup>

Rebozo was finally contacted by IRS agents from the Las Vegas office on April 26, 1973, and interviewed on May 10, 1973. After the results of that interview were furnished to the Washington, D.C., National Headquarters, a decision was reached to conduct an investigation and audit of Rebozo, but that the investigation would be conducted by the Jacksonville, Fla., office. The District Director of the Intelligence Division, Troy Register, assigned agent John Bartlett to be in charge of the Intelligence Division (criminal fraud) side of the investigation. Bartlett and agent Burt Webb, from the Audit Division, met with Rebozo's attorney, Kenneth Gemmill, on July 10, 1973, and advised Gemmill that they were assigned to make an examination of returns of Rebozo for the years 1968 through 1973.<sup>78</sup> Mr. Gemmill objected to any examination of 1968 or 1969 or 1973 records, claiming that the statute of limitations had already run out on 1968 and 1969 and that 1973 records were not relevant. Agent Bartlett responded by indicating that Rebozo had previously told the IRS that he thought the money had been delivered in 1968 and 1969 and that there was other information relating to money in 1968.<sup>79</sup> Despite this initial position, the Internal Revenue Service ultimately agreed not to require production of records relating to 1968, 1969, or 1973. In addition, on that same date, Bartlett's notes indicate that he advised Gemmill that the IRS would not contact third-party witnesses, but would allow Gemmill and Rebozo to obtain information needed by the IRS from third parties. Had the IRS, in the spring of 1973, required the production by Rebozo of the 1969 records, the agents would have observed then that Rebozo had provided payments for the personal expenses of President Nixon.

Bartlett and Webb again met with Rebozo on July 24, 1973, apparently to discuss leaks of information Rebozo charged came from the IRS. According to Bartlett's notes, the IRS agents asked Rebozo, for reasons not explained, whether he had been contacted by "Cox's commission" and he answered in the negative.

Agents Bartlett and Webb again met with Rebozo on August 17, 1973, at which time Rebozo advised them that the President was flying in that night to see Rebozo and wanted to go out to California with

<sup>76</sup> 24 *Hearings* 11641-42.

<sup>77</sup> This matter is explained more fully at p. 1025. *infra*.

<sup>78</sup> See notes taken from interview and meeting as provided by IRS and as prepared by agent Bartlett, in committee files.

<sup>79</sup> See Bartlett notes. *Ibid*.

him, but Rebozo did not think he would go because he wanted to stay and finish up the IRS business.<sup>80</sup> Mr. Rebozo indicated to the IRS agents that he would like to pay to have additional agents put on the investigation in order that it would be finished more quickly. After making that request the second time, Rebozo mentioned to the IRS agents that the President had phoned him 15 minutes after his speech on the previous Wednesday. Mr. Bartlett has advised this committee that pursuant to Rebozo's request, Mr. Bartlett discussed this issue with his superiors and additional agents *were* added to the investigation.

On October 10, 1973, IRS agents met with Attorney Gemmill at the University Club in New York City and advised Gemmill that the investigation had developed nothing new. Mr. Gemmill then requested that the IRS furnish him with a copy of the interview previously conducted by the IRS on May 10, 1973, with his client. Bartlett provided a copy of that interview to the taxpayer's lawyer who made notes of his client's prior statements. During the October 10 meeting in New York, agent Bartlett inquired of Mr. Gemmill as to whether Mr. Rebozo had ever informed President Nixon of the receipt of the \$100,000. In response to that request, Mr. Gemmill phoned agent Bartlett at 10 a.m. on October 12, 1973, and related to him that he had talked to Rebozo who now indicated that he in fact had told Rose Mary Woods that he had placed the \$100,000 in the safe deposit box. Agent Bartlett's response was to ask Rebozo's lawyer if Woods would be available for an interview. Gemmill said he didn't know but that he would find out if they so desired. Bartlett indicated that he did not need the information at that time.<sup>81</sup>

Gemmill again telephonically contacted agent Bartlett on October 16, 1973, and talked between 9:30 and 9:32 a.m. At that time, Gemmill advised Bartlett that after their conversation the prior week in New York, Gemmill called and asked Rebozo whether he had discussed the money with the President. Gemmill said Rebozo told him that he had told the President in Key Biscayne between the election and when the money was returned, which Rebozo believed was in the spring of 1973. Bartlett asked Gemmill when it was that Rebozo had advised Miss Rose Mary Woods, and Gemmill said "shortly after receipt of the money." Bartlett then asked about access to Miss Woods and was told that they probably could get a statement from her as to what she knew about it.<sup>82</sup>

Bartlett had another telephonic communication with Gemmill on the following day, October 17, and Gemmill advised Bartlett that he would get on the phone the next day with regard to the letter from Rose Mary Woods. Bartlett advised Gemmill, "I told him that we had nothing new basis at present—that I thought nothing serious would develop but we had to wait to see what might come up in Watergate or Cox before making a final decision."<sup>83</sup> Bartlett has indicated to the committee that he intended to mean by the quoted language that the

<sup>80</sup> This information again is based on notes taken by the committee of Bartlett's memorandum of the interview of Rebozo of August 17, 1973, in committee files.

<sup>81</sup> Information obtained from handwritten notes of agent John Bartlett provided by IRS.

<sup>82</sup> Information taken from handwritten notes of agent John Bartlett, in committee files.

<sup>83</sup> Information taken from handwritten notes of agent John Bartlett provided by the IRS. Observations by investigators of the committee indicate that the above quoted statement appeared to have other words which were erased and covered over by the quoted language.

IRS could not state they had cleared Rebozo while another investigative body had an ongoing investigation. Gemmill testified that he had no recollection of any discussion of the Special Prosecutor at all with agent Bartlett.<sup>84</sup>

Agents Bartlett and Webb met with Rebozo at his bank on October 18, 1973, and indicated that they had advised Gemmill about the results of the investigation "and I [Bartlett] don't anticipate at this time any action by Intelligence, final decision still pending." Bartlett has explained that that information was communicated to Rebozo so that he would understand there would be no continuing criminal investigation by IRS of the matter. Bartlett's handwritten notes further indicate that on that date he advised Rebozo that disclosure of information and evidence obtained by the IRS had been granted to Special Prosecutor Cox's office. Agent Bartlett has indicated to the Select Committee that he disclosed this information to warn the taxpayer under investigation that anything he might say might be evidence against him in the grand jury. Agent Bartlett conceded, however, that when he read the taxpayer his *Miranda* warning rights in his earlier interview on July 10, 1973, the taxpayer was then advised the information he provided could be used against him in a criminal proceeding.<sup>85</sup>

Agent Bartlett's notes also reflect that he had a prior telephonic communication with Gemmill on October 18, between 9:30 a.m. and 9:38 a.m., and the notes include the words, "Call after meeting with Cox, Fred Buzhardt, White House 486-1414" (sic.) and "1. I told Gemmill about disclosure to Cox." According to Bartlett, these notes indicate that Gemmill was informed by Bartlett even before Mr. Rebozo that Special Prosecutor Cox's office had received a disclosure of IRS information with regard to the receipt by Rebozo of \$100,000. The notation, with Buzhardt's name on it, according to Bartlett, refers to the fact that Gemmill was to contact Buzhardt to obtain a letter from Rose Mary Woods, reflecting her information with regard to the receipt of \$100,000 by Rebozo.

While attorney Kenneth Gemmill could not recall discussions with Bartlett with regard to Special Prosecutor Cox, he admitted to having a conversation with White House counsel Fred Buzhardt but refused to discuss the substance of it on the grounds that it was protected by the attorney-client privilege.<sup>86</sup> White House counsel Fred Buzhardt testified that he recalled having:

\* \* \* received a request from Mr. Kenneth Gemmill to see if I could get some answers to some questions for an Internal Revenue agent. I believe that pertains to this, from Miss Rose Mary Woods. I think you submitted to me a list of questions which I provided to Miss Woods. Miss Woods gave me the answers. I drafted a letter for her to a Revenue agent or somebody with the IRS and I believe it was Jacksonville, Fla., but I do not recall for sure. That is the only thing I recall doing with respect to this at all.<sup>86a</sup>

<sup>84</sup> 24 Hearings 11216.

<sup>85</sup> Information relating to meeting of October 18, 1973, comes from handwritten notes of agent Bartlett, as provided by IRS.

<sup>86</sup> 24 Hearings 11215.

<sup>86a</sup> 23 Hearings 10878.

Fred Buzhardt further testified that he did not remember the questions that the IRS wanted answered, that he recalled “\* \* \* the subject was about whether Miss Woods had a conversation with Mr. Rebozo”, but he could not recall the subject matter of the alleged conversation.<sup>87</sup> Buzhardt did not recall whether he saw Woods in person or contacted her by telephone but he did recall :

I discussed the questions with her and I asked her what the answers were and would she answer them for the IRS. And she said, “Yes.” She gave the information and I prepared the letter for her as I recall, or a draft, and sent it over to her. And as I recall, she sent it back to me and I mailed it. I think as I recall I sent her the draft and I sent an envelope addressed to the IRS.<sup>88</sup>

Buzhardt did not recall whether Woods answered the questions orally or in writing and, also, did not recall that after the letter was prepared, typed and signed, that he had taken it back from Woods, had made some changes on it, had it retyped and re-signed by her.<sup>89</sup> Buzhardt did not recall whether between the time the letter was typed and the time it was sent, he contacted any other individual with regard to the contents of the letter but admitted, “it is possible.”<sup>90</sup> Buzhardt could not recall how long it was between the time Gemmill requested the letter and Buzhardt’s first contact with Woods with regard to the letter. He did not recall whether any changes had been made “in the substance, content or body of the letter” prior to the time it was sent and when asked, “Did you furnish a copy of that letter to any other individual?”, Buzhardt replied, “I do not know.”<sup>91</sup> Buzhardt, when asked if he had made any changes on the letter that was to be signed by Woods, answered :

Well, I don’t have a recollection of it, Mr. Lenzner. I am sure I wouldn’t have made changes unless there was some outside input because I didn’t know anything about the matter. I had no idea what the answers to the questions were, so I would have had to have some input from outside, if I made changes. They had to come from Miss Woods. They couldn’t have come from me because I had no earthly idea about the matter one way or the other.<sup>92</sup>

Buzhardt could not recall whether he ever asked Woods, the President’s personal secretary, if she had ever discussed the matter of the \$100,000 from Mr. Rebozo with President Nixon or anyone else at the White House.<sup>93</sup> Woods testified concerning the letter that :

Mr. Buzhardt came in and said that the IRS is apparently in there checking all or they’re going over Mr. Rebozo’s files. He wanted—Mr. Buzhardt wanted to give them a

<sup>87</sup> 23 *Hearings* 10880.

<sup>88</sup> 23 *Hearings* 10881.

<sup>89</sup> 23 *Hearings* 10882.

<sup>90</sup> *Ibid.*

<sup>91</sup> 23 *Hearings* 10884. See also 26 *Hearings*, exhibit 54 for a copy of the letter from Miss Woods to agent Bartlett.

Buzhardt was also asked by Senator Welcker :

“So in October of 1973, Mr. Rebozo’s \$100,000 contribution was not of particular significance to the counsel of the President; is that correct?” and Mr. Buzhardt responded :

“Certainly not to me, no.”

23 *Hearings* 10885.

<sup>92</sup> 23 *Hearings* 10886.

<sup>93</sup> 23 *Hearings* 10887.

letter on the Hughes loan, I mean the Hughes contribution and he asked if I would be willing to sign a letter they could give to the IRS and I said, "Yes, I would," and I gave him the best of my knowledge on it. He wrote the letter and then, as I say, it was typed twice because he just changed a couple of words in the letter. There was no major change. I don't even remember whether he changed "to" or a "by" or what it was, because he prepared the letter and Mrs. Acker typed it.<sup>94</sup>

Woods testified that she did not know whether Gemmill had asked for the letter. Miss Woods was sure, however, that Fred Buzhardt left her office with the letter and then returned, after a period of time, with some changes.<sup>95</sup> Woods did not recall what changes were made in the body of the letter.

In addition to the fact that Miss Woods' letter was signed and sent to the IRS on October 18, 1973, Gen. Alexander Haig, the Chief of Staff of the White House and H. R. Haldeman's successor, telephonically communicated to Attorney General Elliot Richardson on that same date, a "re-expression of the President's concern about the extent to which Mr. Cox was getting into things that he thought were outside the charter." Former Attorney General Richardson testified before the U.S. Senate Judiciary Committee that Haig advised him of the President's concern and "he didn't see what Mr. Cox's charter had to do with the activities of Mr. Rebozo, especially when there had already been an investigation of the whole matter by the Internal Revenue Service."<sup>96</sup> Richardson further testified that General Haig expressed not only that "the investigation was outside of Mr. Cox's charter," but also that "the Internal Revenue Service was giving Mr. Rebozo a clean bill, that it was the most thorough investigation in years, and that they are intimidated. This is no longer an acceptable basis for a Government to run. That was October 18. But there was no request that anything be done about Rebozo and I had no conversation about Rebozo with Mr. Cox at all."<sup>96a</sup> When asked specifically about the October 18, 1973, telephone call with then-Attorney General Richardson, General Haig answered as follows:

Yes, I do and again in the context of an indication. At the time we were very concerned about another matter with respect to Mr. Cox and Mr. Cox's failure to give us a response and the whole subject to Mr. Cox's frame of reference, activities and investigations came up.

As I recall Mr. Richardson mentioned to me something about a Cox activity at that time that I knew nothing about involving Abplanalp and his discussions with Mr. Cox about that. Well I did not raise that, Elliot raised it. I raised this strictly in the context of the problems we were having with Mr. Cox on another issue, and what I would want to make very, very clear is that the Rebozo matter had nothing to do with the considerations and deliberations made with respect to Mr. Cox in that week of October.<sup>97</sup>

<sup>94</sup> 22 *Hearings* 10202.

<sup>95</sup> 22 *Hearings* 10202-3.

<sup>96</sup> *Hearings before the U.S. Senate Judiciary Committee*, Nov. 8, 1973, Elliot Richardson witness, *see* pp. 386-87.

<sup>96a</sup> *Ibid.*

<sup>97</sup> 23 *Hearings* 11014.

General Haig was also asked if he called Attorney General Richardson at the instruction of the President on October 18, and he responded as follows:

No, it was not in that specific sense. And again you have to put yourself, if you can, to portray the kind of dialog that was going on during that week. \* \* \* I was frequently in the habit that week and at other times of having a discussion with the President and picking up the phone and calling Elliot Richardson. On that occasion, I may have expressed this as being of Presidential concern and I'm sure if I did that I would have had reason to know that either because I knew the President's thinking or because he specifically told me so.<sup>98</sup>

General Haig further denied that the President ever expressed any concern about Special Prosecutor Cox's investigation of Rebozo and, in fact, could not recollect any statement that the President made in discussing the \$100,000 furnished to Rebozo, except the President's concern about the way the investigations were being handled. In indicating that the President had not expressed concern with regard to the Special Prosecutor's investigation of Rebozo, General Haig did state, however:

The concerns I had about it were very limited. In the fall, there was some concern about a number of areas that the Special Prosecutor may or may not have been involved in, in the context of his charter. Mr. Buzhardt, I know, has discussed it with me and I know he discussed it with the Attorney General at that time, Elliot Richardson.<sup>99</sup>

General Haig was also asked the following:

Mr. LENZNER. Do you recall representing to Mr. Richardson that the President was concerned that Mr. Cox was getting into an investigation of Mr. Rebozo?

General HAIG. I may have. I know our counsel was concerned about it.

Mr. LENZNER. Which counsel was that?

General HAIG. Mr. Buzhardt and I discussed it. We discussed that and we discussed another area of activity that Mr. Cox was into and I know there was some ongoing discussions with Mr. Buzhardt and Mr. Richardson.<sup>1</sup>

Mr. Buzhardt, however, testified directly in conflict with the above testimony:

Mr. LENZNER. Now on or about the same date as this letter [the October 18 letter of Miss Woods], do you recall having any discussions with any other individual with regard to the initiation by Special Prosecutor Cox of an investigation into the receipt by Mr. Charles G. Rebozo of \$100,000 from the Hughes Tool Co.?

Mr. BUZHARDT. No.

Mr. LENZNER. Have you, at any time, become aware of the fact, aside from the news media, that Mr. Cox had initiated an investigation into this matter?

<sup>98</sup> 23 *Hearings* 11015.

<sup>99</sup> 23 *Hearings* 11013.

<sup>1</sup> *Ibid.*

Mr. BUZHARDT. I may have been. I don't recall it.

Mr. LENZNER. Do you have any recollection of ever discussing that issue, the issue of the Cox investigation of the Rebozo receipt of \$100,000, with General Haig?

Mr. BUZHARDT. No, I don't recall it.<sup>2</sup>

Mr. Buzhardt further testified that he did not recall whether he was aware that General Haig had made the October 18 call to Attorney General Richardson at the time it was placed.

Gemmill also testified that Bartlett made an agreement with him that when he received the results of the Federal Reserve Bank's search of the dates of the currency returned by Rebozo to Hughes, he would furnish that information to Gemmill.<sup>3</sup> In addition, agent Bartlett's handwritten notes of November 25, 1973 reflecting a telephonic contact with Gemmill indicate "have we heard from the Federal Reserve concerning the money—answered in the negative."<sup>4</sup> Gemmill also asked Bartlett if IRS had any evidence of funds going to a trust account of the President, and Bartlett told Gemmill that they had not.

Following Gemmill's testimony on May 29, 1974, his counsel furnished additional information Gemmill received from General Haig to wit:

Mr. Gemmill now recalls two additional conversations with General Haig concerning the \$100,000 contribution. One occurred a few days before Mr. Gemmill left for China and the other occurred possibly 2 months earlier. To the best of Mr. Gemmill's recollection, General Haig in both conversations indicated that the Federal Reserve Bank report was on the way and "there may be a problem." On both occasions, Mr. Gemmill recalls that he replied that the revenue agents had agreed to give Mr. Gemmill a copy of the Federal Reserve Bank report and that he would wait and see what the report said.<sup>5</sup>

In addition to agreeing to provide the taxpayer not only with a copy of his interview but with a copy of the results of the Federal Reserve Bank report, the IRS apparently obtained access to only a limited number of cashier's checks purchased by Mr. Rebozo despite the fact that a considerable number of cashier's checks were purchased by the taxpayer under the names of Charles Gregory and Anita Reynolds. The IRS further agreed not to photocopy any of the cashier's checks to which they had access and did not obtain information from the checks themselves regarding who received the proceeds of such checks for the purpose for which the checks were issued.

General Haig testified that he discussed the IRS investigation of the Hughes contribution with President Nixon several times: "I would say there were several brief discussions when it came to my attention—to my knowledge. Then there was a prolonged period when it never came up at all. Then I may have discussed it once or twice when

<sup>2</sup> 23 *Hearings* 10888.

<sup>3</sup> 24 *Hearings* 11219.

<sup>4</sup> This information was obtained from handwritten notes provided by the IRS.

<sup>5</sup> Letter of June 6, 1974 to Terry Lenzner from Matthew J. Broderick, attorney for Mr. Gemmill.



the investigation was nearing a conclusion.”<sup>6</sup> Haig also testified that he was present at discussions in Key Biscayne between the President and Mr. Rebozo regarding the investigation of Mr. Rebozo. On one occasion Haig said the President advised him that Rebozo had been before the Select Committee for testimony.<sup>7</sup> General Haig further testified that on one occasion the President advised him of information the President received from Mr. Rebozo: “I think he probably said that Mr. Rebozo did not use the money because he was afraid it would be troublesome and he put it in the safe deposit box and left it there. I know more recently the President expressed to me his absolute conviction that none of that money was given to Miss Woods or to his family, his brothers.”<sup>8</sup>

Finally, Secretary Shultz stated to the committee that the only person he discussed the Rebozo tax audit with was General Haig and this occurred in late 1973.<sup>9</sup>

### IRS AUDIT OF LARRY O'BRIEN

It was during the course of the IRS investigation, of the Hughes Tool Co., that special agents of the IRS, in a sensitive case report, stated that their investigation had disclosed that the Hughes Tool Co. made substantial payments to Lawrence F. O'Brien and Associates during 1970. This same sensitive case report also referred to possible improprieties by Rebozo, Don Nixon, John Meier, and others. Because some of the names mentioned were politically prominent, this information was summarized in a sensitive case report brought to the Secretary of Treasury's attention.<sup>10</sup> Roger Barth, who was assistant to the Commissioner of the IRS, testified that in May 1972, he received a sensitive case report which arose out of the Hughes Tool Co. investigation.

\* \* \* Now, when I received this report, I, of course, went through the normal procedure of taking it to Secretary Shultz, and either he or I transmitted a copy of the sensitive case report of the Hughes project to John Ehrlichman at the White House, because of the fact that there were allegations or representations in the report of possible wrongdoing by Mr. Rebozo and Mr. Nixon, the President's brother or brothers \* \* \*.

Some time thereafter, not very long thereafter, I was either called on the phone or went over—I can't remember which—to Mr. Ehrlichman's office, and I think I went over there, as a matter of fact \* \* \* and he asked that he be kept advised of the development of this Hughes project as it related to Mr. Rebozo and the Nixon brother or brothers. And in the conversation about that, he raised the question of whether, you

<sup>6</sup> 23 Hearings 11029.

<sup>7</sup> *Ibid.*

<sup>8</sup> 23 Hearings 11024.

<sup>9</sup> Interview with former Treasury Secretary, George Shultz, Jan. 24, 1974. The Rebozo investigation was originally assigned in May 1973 after it had been determined that Mr. Rebozo had retained the \$100,000 received from Howard Hughes.

As a result of an IRS review of the Rebozo investigation, it was determined that the scope and nature of the case required that the national office coordinate the investigation. In December 1973, the national office assigned one of its top investigators, Special Agent Albert G. Keeney, to supervise and direct the overall investigation. Since that time the investigation has been pursued effectively and vigorously.

<sup>10</sup> Sensitive case report—IRS—chronology, Apr. 26, 1972, pp. 1-5.

know, what would be the tax treatment or the implication of the payments to Larry O'Brien. If this were a political contribution by the Hughes Tool Co., it could conceivably be a violation of the Corrupt Practices Act, and if it were deducted by the corporation, it could be a violation of the tax laws. On the other hand, if it were compensation for consulting services for Mr. O'Brien or his firm, then he raised the question of would this be reported by Mr. O'Brien.

I thought this was a reasonable question that he asked and I told him I would check it out, but I did not want to make any contact with our field personnel through normal channels because I did not want to give the impression I was, on behalf of the Commissioner, trying to instigate any audit of Mr. O'Brien. So what I did was go to the Assistant Commissioner of Inspection, Frank Geibel, and asked for Lawrence O'Brien's tax returns \* \* \* I asked that they get them in a way that the agents working on the case in the field wouldn't know that I requested them. And they did this, and what I did, I just looked at the tax returns of Mr. O'Brien and his consulting firm and made sure that there was enough gross income reported for those years, to cover the amount reported.<sup>11</sup>

Ehrlichman has testified that he received sensitive case reports beginning in 1969 when he was counsel to the President and continuing throughout his tenure at the White House. Ehrlichman stated that the President and the Secretary of the Treasury had worked out the arrangement whereby sensitive case reports would be transmitted to the White House through Ehrlichman.<sup>12</sup> Johnnie Walters, who was Commissioner of the IRS from August 1971 through May 1973, has testified that it would be quite proper for the Secretary of the Treasury to alert the White House to sensitive case reports. Walters, however, has also testified that he had no knowledge that Barth was providing copies of sensitive case reports to Ehrlichman. Walters stated that, "It would have been out of the routine, and I would worry about it."<sup>13</sup>

Ehrlichman testified that he received the sensitive case report from Barth, and that after receiving it called Shultz to find out what the status of the O'Brien audit was. Shultz, at this time, had only been Secretary of the Treasury for a few weeks and was not even aware that O'Brien was being audited. Shultz told Ehrlichman he would get this information and report back to him.<sup>14</sup>

After his conversation with Ehrlichman, Shultz called Walters to get the status of the O'Brien audit. Walters has testified that:

\* \* \* Secretary Shultz stated to me that the White House had information that indicated that Mr. O'Brien may have received large amounts of income which possibly might not have been reported properly. The Secretary asked me if I could check, and I said I would check. I then asked the Assistant Commissioner of Compliance, Mr. Hanlon, if he would de-

<sup>11</sup> 23 *Hearings* 11222.

<sup>12</sup> Ehrlichman interview, Jan. 10, 1974, pp. 1-2.

<sup>13</sup> 24 *Hearings* 11628.

<sup>14</sup> Shultz interview Jan. 24, 1974, p. 2.

termine whether Mr. O'Brien had filed returns, and the status of those returns. A few days later, Mr. Hanlon reported orally to me that IRS had checked, that Mr. O'Brien had filed returns; that those returns reflected large amounts of income; that the returns had been examined; that a small, relatively small deficiency was indicated in one which Mr. O'Brien had paid; and that the audit and examinations were closed.

Now, I reported this to the Secretary at some point and told him just that, which meant that there was nothing else; that IRS has performed its function and responsibility \* \* \*. Some time later, the Secretary indicated that that had not completely satisfied Mr. Ehrlichman, and wasn't there anything else that could and should be done; and of course, by this time, IRS had already concluded that it should interview Mr. O'Brien in connection with these payments from Hughes.

I told the Secretary \* \* \* that we could interview Mr. O'Brien and just be sure that the amounts reflected in the return covered the particular amounts from the Hughes organization \* \* \*.<sup>15</sup>

Walters has stated that at a later date Shultz confirmed to him that it was Ehrlichman who told Shultz about the money O'Brien received from Hughes.<sup>16</sup>

Walters testified that in late 1971 or early 1972, the top management team of IRS discussed the approaching 1972 Presidential elections. The IRS deliberately concluded that anything that was politically sensitive should be postponed until after the election. Walters said they did not want to be involved in politics on either side and so wherever possible, politically sensitive interviews were to be postponed until after the election. Because of this policy, the IRS did not interview Rebozo or Don Nixon until 6 months after the election. The IRS, however, did succumb to pressures from the administration and interviewed O'Brien before the 1972 election. Walters further testified that:

\* \* \* With that policy in mind, it's obvious that any interview of Larry O'Brien would have been postponed until after the election. So, I think IRS would have not have conducted that interview until after the election had it not been for the generation of pressure from the White House, Ehrlichman; \* \* \*.<sup>17</sup>

In the meantime, both Barth and Shultz had kept Ehrlichman apprised of the status of O'Brien's audit. Shultz stated that there had been an unspoken feeling that the IRS tended to be rather easy on Democrats while they were particularly hard on Republicans. Ehrlichman had especially expressed these kinds of feelings to Shultz. It was Shultz' objective, therefore, to be sure that a proper audit was conducted on O'Brien. From time to time, Shultz called the IRS to see how the proceedings were going and he would then call Ehrlichman to report on the status on the O'Brien audit.<sup>18</sup> Barth has testified that he advised Ehrlichman that after Barth checked O'Brien's tax

<sup>15</sup> 24 Hearings 11639.

<sup>16</sup> 24 Hearings 11640.

<sup>17</sup> 24 Hearings 11642.

<sup>18</sup> Shultz interview, Jan. 24, 1974, p. 3.

returns, there appeared to be enough gross income to cover the amounts that Hughes reported he had paid O'Brien. According to Barth, this was the first and only time that he had ever obtained an individual's tax returns to verify information he obtained through a sensitive case report. Barth testified that Ehrlichman knew he was going to obtain O'Brien's tax returns and, in fact, encouraged him to do so.<sup>19</sup>

Ehrlichman testified that there were good political reasons to go after O'Brien since O'Brien was the head of the Democratic party. After Ehrlichman saw O'Brien's name in the sensitive case report, he said he brought this information to President Nixon's attention. The President was quite interested in the audit of O'Brien and was especially interested in the fact that O'Brien was on retainer to the Hughes organization, according to Ehrlichman. Ehrlichman, however, did not recall if the President made any specific requests for Ehrlichman to follow up on this matter.<sup>20</sup>

Haldeman has testified that the information coming from the Hughes tax audit concerning Larry O'Brien may have revived the White House interest in O'Brien. Haldeman further stated that from the administration's perspective, Larry O'Brien was the only effective Democratic politician in the country and therefore, there was some interest in attacking O'Brien to lessen his effectiveness from a political standpoint.<sup>21</sup> Ehrlichman has testified that Haldeman filled in many of the informational gaps that were left from the sensitive case report concerning O'Brien. For example, Ehrlichman learned from Haldeman that the amount of the retainer O'Brien was receiving from Hughes was quite significant, and recalls that both were impressed by the possibility of embarrassing O'Brien because of a possible overlap of his retainer with Hughes and his tenure as chairman of the Democratic National Committee.<sup>22</sup>

On August 17, 1972, Larry O'Brien was interviewed by the IRS. A written report of this interview was sent to Walters who in turn transmitted the report to Secretary Shultz. By this time, Walters felt that the IRS' interest in O'Brien should be concluded because the taxpayer had filed his returns, reported his income, and paid his taxes. Walters said he had insisted to Shultz that the IRS had conducted an audit and the case was closed. Walters added that "it appeared that [Shultz] was being pressed \* \* \*"<sup>23</sup>

On August 29, 1972, Shultz told Walters that he wanted to meet with both Walters and Barth to discuss the O'Brien audit. Walters testified that both he and Shultz thought they were being "backdoored" in some fashion and that in this situation it would be advisable for Barth to be apprised of the specifics concerning the O'Brien matter. During this meeting with Shultz and Barth, Walters explained to Barth that information had come to the IRS from the White House concerning large amounts of money O'Brien made that were possibly not reported. Walters further explained to Barth that the IRS had checked O'Brien's return and that it appeared that everything was proper and the examination was closed.<sup>24</sup> Barth testified

<sup>19</sup> 23 *Hearings* 11226.

<sup>20</sup> Ehrlichman interview, Jan. 10, 1974, p. 3.

<sup>21</sup> Haldeman interview, Nov. 9, 1973, p. 4.

<sup>22</sup> Ehrlichman interview, Jan. 10, 1974, p. 2.

<sup>23</sup> 24 *Hearings* 11638.

<sup>24</sup> 24 *Hearings* 11638-41.

that he said that he had read the report on the matter and he felt it was a thorough job.

Shultz then called Ehrlichman to give him a final report on the O'Brien audit. Both Walters and Barth were on telephone extensions during this joint telephone call. Shultz and Walters reported to Ehrlichman that the audit report on O'Brien was completed and that everything was in order. Ehrlichman asked Barth if he had read the report and that if everything appropriate had been done on this audit. Barth testified he told Ehrlichman that it looked like an appropriate audit and there was nothing worth pursuing any further. Barth recalls that Ehrlichman seemed to take his word for it and that the only reaction Ehrlichman seemed to have was that he was annoyed that it had taken so long for this report to be prepared.<sup>25</sup>

Walters testified that toward the end of the conversation, Ehrlichman expressed very strong feelings to Walters concerning the manner in which the O'Brien audit was conducted. Walters testified that as this conversation became more offensive to him personally, he hung up his extension.<sup>26</sup> Shultz recalls that during this conversation, Ehrlichman told Walters that Walters would not go after prominent Democrats even if the facts were there. According to Shultz, this was the only challenge to the thoroughness of the O'Brien audit that he could recall.<sup>27</sup>

Ehrlichman stated that the purpose of this joint telephone call was to report to him that the audit on O'Brien had been completed and that it had disclosed no improprieties or delinquencies. Ehrlichman testified that:

My concern was throughout, that the IRS down in the woodwork was delaying the audit until after the election and that seemed to be the case, that there was a stall on \* \* \* <sup>28</sup>

Ehrlichman also testified that "I wanted them to turn up something and send [O'Brien] to jail before the election and unfortunately it didn't materialize."<sup>28a</sup> During this joint telephone conversation Ehrlichman said he had his first opportunity to articulate to Walters what his opinion was concerning the job Walters did on the O'Brien audit.

\* \* \* it was my first crack at [Walters]. George wouldn't let me at him. George wanted to stand between me and his Commissioner and this was the first time I had a chance to tell the Commissioner what a crappy job he had done. \* \* \* <sup>29</sup>

Ehrlichman did accept the Commissioner's view that the O'Brien audit was closed. He says he did not suggest that they reopen the audit on O'Brien at any time because as far as he was concerned, the matter was closed.<sup>30</sup> Barth, however, has testified that shortly after the August 29, 1972 joint telephone conversation with Ehrlichman, Ehrlichman called him a few hours later. Barth recalls that Ehrlichman just wanted to check to make sure that Barth honestly felt that the IRS audit of O'Brien was conducted properly. Barth told Ehrlichman that

<sup>25</sup> 23 *Hearings* 11224.

<sup>26</sup> 24 *Hearings* 11645.

<sup>27</sup> Shultz interview, Jan. 24, 1974, p. 3.

<sup>28</sup> 21 *Hearings* 9683.

<sup>28a</sup> 21 *Hearings* 9684.

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

he was satisfied with the audit and according to Barth, Ehrlichman thanked him for his judgment on the matter and that was the end of the conversation.<sup>31</sup>

On September 15, 1972, however, John Dean and H. R. Haldeman met with President Nixon and, according to evidence received by the committee, discussed the IRS investigation of Larry O'Brien. The details of this discussion, however, were not provided to the committee by the White House. In addition, this particular conversation was deleted from the White House tapes provided to the Special Prosecutor and the House Judiciary Committee as well as the transcripts released to the public.<sup>32</sup>

## X. THE ISSUE OF USE OF THE MONEY

### A. BACKGROUND

As discussed in section IV above, in February 1969, Charles G. Rebozo was asked by the President to contact J. Paul Getty "regarding major contributions."<sup>33</sup> Evidence obtained by the Senate Select Committee indicates that the President, Rebozo, Haldeman, and Ehrlichman sought to establish a fund to be controlled by the White House staff rather than by the Republican National Committee.<sup>34</sup> Evidence obtained by the committee indicates that Rebozo controlled funds during 1969 which he used for "administration-connected costs."<sup>35</sup>

The committee has ascertained that pursuant to communications with John Ehrlichman, Rebozo, between April and July 1969, transmitted \$1,416.18 from his fund to Kalmbach for payments to Caulfield and Ulasewicz. These funds originally derived from 1968 campaign contributions in the Florida Nixon for President committee account.<sup>36</sup> Rebozo has also testified that he received \$150,100 in cash contributions from Howard Hughes and A. D. Davis.<sup>37</sup> In the case of the Hughes funds, the committee has received evidence and testimony indicating that those funds were never transferred to the appropriate campaign officials or committees.<sup>38</sup>

According to CRP's records, the funds contributed by A. D. Davis were never received by the Committee To Re-Elect the President on whose behalf Mr. Rebozo accepted them.<sup>39</sup>

Herbert Kalmbach has testified that on April 30, 1973, Rebozo told him that Rebozo had spent some of the \$100,000 received from Hughes on F. Donald Nixon, Edward Nixon, Rose Mary Woods, and other individuals.<sup>40</sup>

In an effort to confirm or deny Kalmbach's testimony, the committee sought, through a series of subpoenas, to obtain financial records from Rebozo and from his Key Biscayne Bank & Trust Co. Rebozo refused

<sup>31</sup> 23 *Hearings* 11224.

<sup>32</sup> See Thompson affidavit and "Memorandum of Substance of Dean's Calls and Meetings With the President." 4 *Hearings* 1794-1800.

<sup>33</sup> See 26 *Hearings*, exhibit 15 for memo from Haldeman to Ehrlichman of Feb. 17, 1969; see also interview of Edward L. Morgan.

<sup>34</sup> *Ibid.*

<sup>35</sup> 26 *Hearings*, exhibit 16.

<sup>36</sup> 23 *Hearings* 10857.

<sup>37</sup> 21 *Hearings* 10117.

<sup>38</sup> 21 *Hearings* 9970.

<sup>39</sup> See A. D. Davis executive session, 22 *Hearings* 10562. See LaRue executive session, 23 *Hearings* 11152. See also interviews with Paul Barrick, Fred LaRue, and memo of conversation with Robert Barker, attorney for Maurice Stans.

<sup>40</sup> 21 *Hearings* 10189.

to produce all documents requested, thus frustrating the committee's investigation work and preventing it from obtaining necessary and relevant documents.<sup>41</sup>

The committee, therefore, found it necessary to subpoena the documents and records of third parties. In order to determine if Rebozo has made expenditures with hidden funds, the committee subpoenaed a few typical Key Biscayne contractors and vendors who were likely to have served either Rebozo or the President during the period in question.<sup>42</sup> Time did not permit an exhaustive inquiry.

This limited survey of contractors and vendors proved fruitful since it revealed that Rebozo was using four trust accounts in his attorney's name through which his funds moved.

Three of these accounts are at Rebozo's bank and Rebozo again refused to produce lawfully subpoenaed records relating to said trust accounts.<sup>43</sup> Nevertheless, based on records provided by those few vendors and contractors contacted and the limited documents and records available to the committee, a detailed analysis was prepared.

## B. SUMMARY OF FACTS

The committee has received testimony and evidence that:

1. Rebozo ordered and paid for expenses totaling over \$50,000 for President Nixon during the periods following both the 1968 and 1972 Presidential elections.

2. These payments were made by Rebozo despite the fact that all other expenses of President Nixon were paid for by check issued against his bank accounts or by debit memos drawn against his bank accounts. Rebozo has the authority to draw against the President's account at the Key Biscayne Bank by issuing debit memos for cashiers' checks and bank transfers. Although he has regularly used this procedure, he did not do so for these transactions.

3. Substantial payments furnished by Rebozo on behalf of President Nixon were made in cash and, when Rebozo paid the same companies for work done for his own benefit, he paid by check.

4. Expenses paid for by Rebozo included \$45,621.15 for improvements and furnishings at the President's 500 and 516 Bay Lane properties in Key Biscayne, Fla. The records reflecting expenditures for these improvements were withheld from the firm of Coopers & Lybrand and do not appear in their August 1973 examination of the President's assets and liabilities, which covered the period from January 1, 1969, to May 31, 1973.

5. Currency totaling at least \$23,500 was deposited by Rebozo in trust accounts not in his name to pay for the President's expenses, thus concealing the true source of these payments. All currency so deposited was in \$100 bills.

6. In addition to Rebozo's role as the President's personal agent regarding the Key Biscayne property,<sup>44</sup> President Nixon

<sup>41</sup> 26 *Hearings*, exhibits 55 and 56.

<sup>42</sup> The committee staff pursued this route after learning Rebozo was reimbursed for expenditures on one occasion by the President.

<sup>43</sup> Rebozo, individually and as president of the Key Biscayne Bank, was subpoenaed to produce certain records reflecting payments he made on behalf of the President and others. Rebozo never complied with this subpoena. See 26 *Hearings*, exhibits 55 and 56.

<sup>44</sup> See sec. IV above.

was aware of and concurred in at least some of these improvements to his properties.

7. Substantial funds used to pay for expenses and gifts of President Nixon were transmitted to trust accounts in the name of Rebozo's attorney, a process which concealed the source of the funds.

8. The sum of \$4,562, which originated as campaign contributions, was passed by Mr. Rebozo through three bank accounts and a cashier's check, none in his name, to purchase jewelry given by the President as a gift to his wife.

9. Throughout the period during which these expenditures were made on the President's behalf, Rebozo had access to substantial amounts of cash retained from campaign contributions received.

10. The Coopers & Lybrand examination of the President's assets and liabilities as of May 31, 1973, reflects no liabilities payable to Rebozo.

11. Rebozo did not file a U.S. gift tax return <sup>45</sup> for calendar years 1969, 1970, 1971, or 1972 as required by the Internal Revenue Code, section 6019(a).

12. The President reimbursed Rebozo in the amount of \$13,642.52 for a portion of the cost of construction of a pool on the President's property. This reimbursement occurred after Rebozo returned funds to representatives of Hughes and despite the fact that Coopers & Lybrand report reflected no liability payable to Rebozo.

13. During November 1972, Rebozo expended at least \$20,000 in currency on the President's behalf.

14. According to Rebozo's testimony and financial records, the only apparent sources available to Rebozo for a substantial portion of the \$20,000 in currency used in November 1972 were campaign contributions.

### C. THE COOPERS & LYBRAND REPORT

On August 20, 1973, the accounting firm of Coopers & Lybrand issued a report on the President's assets and liabilities. They reported in a letter to the President on improvements and furnishings to his properties at 500 and 516 Bay Lane that: "Through May 31, 1973, you paid from your personal funds for improvements to these properties in the amounts of \$37,942 with respect to 500 Bay Lane, and \$38,479 with respect to 516 Bay Lane as follows: <sup>46</sup>

"Property	Improvements	Furnishings	Total
500 Bay Lane.....	\$24,734	\$13,208	\$37,942
516 Bay Lane.....	*29,687	8,792	38,479
Total.....	54,421	22,000	*76,421

\*"Included in the improvements for 516 Bay Lane were loan charges of \$368.50 on the property, therefore the total actual costs per the President's records are \$76,053."

<sup>45</sup> See Internal Revenue Service form 709; these returns must be filed on or before the 15th day of the 2d month following the close of the calendar quarter during which the gift or gifts were made (IRC sec. 6075(b)).

<sup>46</sup> Coopers & Lybrand letter to President Nixon, Aug. 20, 1973.



The details of these expenditures are as follows :

IMPROVEMENT COSTS PAID BY PRESIDENT NIXON ON HIS KEY BISCAYNE PROPERTIES <sup>48</sup>

Contractor and service	Date paid	500 Bay Lane	516 Bay Lane	Total
Babcock Co. Builders, Inc.	Apr. 14, 1969			
Remove existing bedroom and construct Executive office	May 16, 1969		\$14,765.00	\$14,765.00
Alterations and repairs	May 2, 1969 to May 13, 1969	\$3,224.19		3,224.19
Do	Apr. 24, 1969 and May 2, 1969		799.49	799.49
Alterations—Executive office	Aug. 11, 1969		11,307.12	11,307.12
Alterations and repairs	Nov. 12, 1969	6,299.44		6,299.44
Caldwell Scott Construction Co.: Remodeling	July 28, 1969 and Aug. 26, 1969	15,210.38		15,210.38
Little, Lalr & Pilkington	Apr. 14, 1969 and June 17, 1969		2,132.60	2,132.60
Metals Tech. Inc.: Panels	Oct. 1, 1969		314.80	<sup>49</sup> 314.80
Rablen-Shelton: Furnishings	July 31, 1969	10,000.00		10,000.00
	Oct. 31, 1970	3,208.23	8,791.77	<sup>49</sup> 12,000.00
Total		37,942.24	38,110.78	76,053.02
Loan charges per records			368.50	368.50
Total		37,942.24	38,479.28	76,421.52

<sup>48</sup> These figures are from the President's accounting records for the period Jan. 1, 1969, through May 31, 1973, as maintained by Arthur Blech.

<sup>49</sup> Payments made by check drawn against President Nixon's account; the remaining payments to supplies was done by cashiers check or Key Biscayne bank check.

The above expenditures totaling \$76,421.52 were made from the President's personal funds, usually by debit memo against his bank accounts at the Key Biscayne Bank & Trust Co., for cashier's checks or bank checks issued to the suppliers.<sup>50</sup>

#### D. EXPENDITURES BY REBOZO CONCEALED FROM ACCOUNTANTS

The Select Committee's investigation, however, reflects actual expenditures for the same period on the President's properties as follows:

Property	Improvements	Furnishings	Total
500 Bay Lane	\$54,364	\$14,939	\$69,303
516 Bay Lane	42,441	9,930	52,371
Total	96,805	24,869	121,674

As noted in the above schedules, costs for improvements and furnishings reported by Coopers & Lybrand amounted to \$76,053 (plus \$368.50 in loan charges) whereas actual expenditures for improvements and furnishings amounted to at least \$121,674. Expenditures for improvements and furnishings amounting to \$45,621 were not included in the President's records when the records were presented to the accounting firm. These expenditures made for improvements on and furnishings of the President's properties at 500 Bay Lane and 516 Bay Lane from 1969 to 1972 include the following:<sup>51</sup>

<sup>50</sup> Information obtained from interviews with Kalmbach, DeMarco, Marilyn Parent, Ann Harvey, and Arthur Blech.

<sup>51</sup> These expenditures were obtained by contacting vendors which provided services to the Key Biscayne properties.

Conversion of garage into living quarters-----	\$11, 978. 84
Swimming pool and accessories-----	18, 435. 18
Extension of roof-----	6, 508. 11
Fireplace-----	3, 586. 00
Architectural model of 500 Bay Lane-----	395. 65
Putting green-----	243. 57
Billiard table-----	1, 138. 80
Architect fees and tile repairs-----	3, 335. 00
Total -----	45, 621. 15

These improvements were directed and paid for by Charles G. Rebozo, with funds derived from the following sources:

1. By personal checks of Charles G. Rebozo (Account No. 1-34)-----	\$13, 361. 21
2. By checks from trust accounts-----	23, 213. 01
3. By currency-----	5, 065. 28
4. By form unknown—believed to be currency-----	3, 981. 65
Total -----	45, 621. 15

Funds deposited in the above mentioned trust accounts included currency amounting to \$23,500. Thomas Wakefield stated the currency deposited in the trust account consisted of \$100 bills.<sup>52</sup> Accordingly, the total currency which may have been used to finance these expenditures amounted to \$32,259.94.

#### E. THE IMPROVEMENTS ON THE PRESIDENT'S KEY BISCAYNE PROPERTIES

In December 1968, President Nixon, Mrs. Nixon, Mr. and Mrs. David Eisenhower, and Mr. Rebozo met with Mr. Jaime Borrelli, of the architectural firm of Bouterse, Borrelli & Albaisa (BBA), to discuss possible alterations to the 500 Bay Lane property.<sup>53</sup> Plans were thereafter prepared and revisions made from time to time. On most occasions, Mr. Rebozo would take the plans to Washington, D.C., for review by the President and his family.<sup>54</sup>

Documents in the files of the committee reflect that Mr. Rebozo was consulted and made decisions on every aspect of modification and alterations to 500 Bay Lane.<sup>55</sup>

##### 1. ARCHITECT FEES AND TILE REPAIRS—\$3,335

The architectural firm of Bouterse, Borrelli & Albaisa was formed in the latter part of 1968. Donald A. Bouterse is a nephew of Rebozo. Rebozo always paid this firm for improvements on the President's properties with currency. According to the architects' records furnished to the staff the following currency payments were made by Mr. Rebozo:<sup>56</sup>

<sup>52</sup> Interview of Thomas H. Wakefield, June 24, 1974, p. 1.

<sup>53</sup> Interview of Jaime Borrelli; June 1, 1974; p. 1.

<sup>54</sup> *Ibid.*

<sup>55</sup> 26 *Hearings*, exhibit 57, contains a number of documents reflecting the firm BBA's work done at the order of Mr. Rebozo for President Nixon's residence. For example, the bill sent to Rebozo for payment of Feb. 3, 1969, notes "additions and alterations, 500 Bay Lane, Key Biscayne COM. No. 68-120" and estimates the cost of construction at \$8,000. A standard form agreement between owner and contractor dated Feb. 18, 1969, indicates an agreement between Mr. Rebozo as agent for the owner of 500 Bay Lane and the Caldwell Scott Engineering Construction Co. which was contracted to do certain work on the President's home.

<sup>56</sup> 26 *Hearings*, exhibits 58-60, 65. Specifically, Mr. Rebozo ordered certain work to be done in 1969 by Borrelli's firm which was for "additions and alterations, 500 Bay Lane, Key Biscayne" which work he assumed the obligation for payment. In a letter to Mr. Borrelli on July 7, 1969, Rebozo makes reference to a dispute with regard to payment for a subcontractor, Caldwell-Scott, and notes "as you know, the original statement was forwarded more than 2 months after I had requested it of Mr. Scott. This, of course, made payment thereof impossible for me." See 26 *Hearings*, exhibit 60.

Date:	Amount
Feb. 10, 1969	\$400
Mar. 7, 1969	400
Mar. 19, 1969	300
Apr. 2, 1969	581
Total	1,681

Rebozo also paid \$1,654 in cash for the work done by Designers Flooring Co. The payments were made as follows: <sup>57</sup>

Date:	Amount
Apr. 11, 1969	\$754
May 26, 1969	300
July 22, 1969	600
Total	1,654

The President's records through May 31, 1973 and Rebozo's records do not reflect any reimbursement to Rebozo by President Nixon. It is also of interest that when Rebozo made a \$500 payment to Donald Bouterse on January 6, 1969, and \$273 on March 6, 1969, to Designers Flooring Co. in connection with work on his own property at 490 Bay Lane, payment was made by personal check. <sup>58</sup>

## 2. ARCHITECTURAL MODEL OF 500 BAY LANE—\$395.65

Bouterse, Borrelli & Albaisa, architects, received two payments from Mr. Rebozo amounting to \$395.65 for a model of 500 Bay Lane in connection with remodeling work on President Nixon's properties. The payments were made by Mr. Rebozo as follows: <sup>59</sup>

Date:	Amount
Jan. 18, 1969	\$295.65
Mar. 14, 1969	100.00
Total	395.65

Although the BBA representative contacted was unable to state whether payment was made in currency, no charge was found on Mr. Rebozo's bank statement indicating that a check from Mr. Rebozo had been issued in payment.

## 3. CONVERSION OF GARAGE INTO LIVING QUARTERS—516 BAY LANE— \$11,978.84

Robert Little, former senior partner in the architectural firm of Little, Lair & Pilkington, stated that he met with President Richard Nixon and Charles G. Rebozo in 1969 at the Key Biscayne compound to discuss remodeling of the President's property at 516 Bay Lane. This discussion initially entailed plans to be drawn by Little's firm in the construction of a bedroom and general remodeling. Later, Little was directed by Mr. Rebozo to revise these plans since Mrs. Nixon wanted the garage on the 516 Bay Lane property converted into living room, bedroom and bath. <sup>60</sup>

<sup>57</sup> 26 *Hearings*, exhibits 61-63.

<sup>58</sup> 26 *Hearings*, exhibit 64.

<sup>59</sup> 26 *Hearings*, exhibit 65.

<sup>60</sup> Interview of Robert Little, June 1, 1974, p. 1.

The fees paid to Little, Lair & Pilkington were made by check from the President's bank account and thus are included in the records furnished to the Coopers & Lybrand accounting firm.

The conversion itself was described in documents furnished the committee as "516 Bay Lane, convert two-car garage into efficiency with living room, bedroom and bath—starting date, May 25, 1969." The work was done by Babcock Company Builders, Inc., and payment of \$11,978.84 was made on August 6, 1969 by Mr. Rebozo's personal check No. 4169 drawn on his account No. 1-0034 in the Key Biscayne Bank. Although Mr. Rebozo purported to make all 1969 cancelled checks available to the committee staff, this check for \$11,978.84 was not included.<sup>61</sup>

The financial records of Mr. Rebozo and the President show no reimbursement of this expenditure to Mr. Rebozo by President Nixon through May 31, 1973.

#### 4. PUTTING GREEN AT 516 BAY LANE—\$243.57

The Bartlett Construction Co. installed an "Arnold Palmer Putting Green" at President Nixon's 516 Bay Lane property. The bill submitted amounting to \$243.57 was paid by Mr. Rebozo's personal check (account No. 1-34) on June 17, 1969.<sup>62</sup> Again, records reviewed by the staff do not reflect reimbursement by the President to Mr. Rebozo for this expenditure.

#### 5. THE PRESIDENT'S PAYMENTS FOR WORK ON HIS KEY BISCAYNE PROPERTIES—\$76,053.02

While the preceding payments represent amounts paid by Mr. Rebozo in 1969 for work on the President's properties, he continued to oversee and ordered other work to be done at the President's homes. Payments were made for these other expenses from the personal account of the President in the Key Biscayne Bank. In most of these instances, an advice of charge, authorized by Mr. Rebozo, was made against the President's account for a cashiers' check or Key Biscayne Bank check issued to the supplier or contractor.<sup>63</sup> In two instances, a personal check was drawn on the President's account. (These payments, all of which were charged to the President's account No. 2-527 in the Key Biscayne Bank are shown above on p. 1033.) Mr. Rebozo was, therefore, in a position to charge the President's bank account for any expenditures affecting the President's properties.<sup>64</sup>

#### F. THE WAKEFIELD TRUST ACCOUNTS

Within the 10 months following the 1968 election, Rebozo paid expenses of the President totaling \$17,091.86 with cash or with checks charged to Rebozo's account. Within the 3 months following the 1972 campaign, Rebozo paid for \$28,529.29 of expenses incurred on the President's behalf from funds concealed in trust accounts under the control of Rebozo's attorney, Thomas H. Wakefield.

<sup>61</sup> See 26 *Hearings*, exhibits 66 and 67.

<sup>62</sup> See 26 *Hearings*, exhibits 68 and 69.

<sup>63</sup> See interviews of Arthur Blech, the President's accountant, April 18, 1974 and June 3, 1974.

<sup>64</sup> *Ibid.*

In mid-November of 1972, Jack Brown, an employee of the Key Biscayne Bank & Trust Co., who is regularly used as an agent by Rebozo, ordered from J. H. Clagett, Inc., a general contractor, the extension of the existing roof at 500 Bay Lane to cover the patio.<sup>65</sup> At that time, Brown, acting on the instructions of Mr. Rebozo, represented himself to be an agent of the President.<sup>66</sup> On November 17, 1972, an application for a building permit was filed with the Metropolitan Dade County Building and Zoning Board in the name of Charles G. Rebozo for 500 Bay Lane.<sup>67</sup> Mr. Rebozo's name was subsequently crossed out and the name of Richard M. Nixon written above it.<sup>68</sup> On November 24, 1972, \$10,000 in \$100 bills were deposited to the Thomas H. Wakefield trust account (No. 05-791-19) at the First National Bank of Miami on behalf of Rebozo.<sup>69</sup> This trust account had remained inactive from October 31, 1968 to November 24, 1972 with a balance of \$76.24.<sup>70</sup> On November 30, 1972, J. H. Clagett, Inc., submitted an invoice for \$6,508.11 to Jack Brown at the Key Biscayne Bank & Trust Co. as a "bill for Rebozo compound."<sup>71</sup> On December 7, 1972, Thomas H. Wakefield, representing C. G. Rebozo, drew a check to J. H. Clagett, Inc., for \$6,508.11 against the Thomas H. Wakefield trust account in which \$10,000 was deposited 2 weeks previously.<sup>72</sup> There is no record of any reimbursement for this expense to Rebozo by President Nixon.

Thomas H. Wakefield is a signator on the following accounts:

Bank	Name of account	Account No.	Date opened
First National Bank of Miami	1. Wakefield, Hewitt and Webster trust account	11-611-1	May 18, 1970
	2. Wakefield and Underwood trust account	6-681-1	
Key Biscayne Bank & Trust Co.	3. Thomas H. Wakefield trust account	05-791-9	June 24, 1947
	4. Wakefield, Hewitt and Webster trust account	1-673	(*)
	5. Thomas H. Wakefield special account	2-691	Apr. 15, 1969
	6. Wakefield, Hewitt and Webster special account	1-067	(*)

\* Not available.

Testimony and documents received by the committee indicate that Mr. Rebozo, as a client of Wakefield, has had transactions related to at least five of these trust accounts.<sup>73</sup> Thomas Wakefield refused to produce any records relating to transactions on behalf of Mr. Rebozo or of the President in his trust accounts on the grounds of attorney-client privilege.<sup>74</sup> He also invoked this privilege in response to questions regarding these transactions during an executive session of the committee, although he did provide some information at interviews.<sup>75</sup> Mr. Rebozo refused the committee's request that he waive the attorney-client privilege and allow Wakefield to explain these transactions. In order to obtain information regarding these transactions, it has been

<sup>65</sup> See 23 *Hearings* 10965, and Clagett interview, June 14, 1974, p. 12.

<sup>66</sup> Clagett interview, June 14, 1974, p. 13.

<sup>67</sup> 26 *Hearings*, exhibit 70.

<sup>68</sup> *Ibid.*

<sup>69</sup> Wakefield interview, June 24, 1974, and 26 *Hearings*, exhibit 71.

<sup>70</sup> *Ibid.*

<sup>71</sup> 26 *Hearings*, exhibit 72.

<sup>72</sup> See Wakefield June 24, 1974 interview and 26 *Hearings*, exhibit 73.

<sup>73</sup> See Thomas H. Wakefield executive session, documents attached as exhibits from the Wakefield, Hewitt & Webster trust account, 24 *Hearings* 11372-85.

<sup>74</sup> 24 *Hearings* 11321.

<sup>75</sup> 24 *Hearings* 11320.

necessary to serve subpoenas directly on the banks involved. Although some records were provided for one account on a previous occasion, Rebozo, as president of the Key Biscayne Bank & Trust Co., failed to produce records for the remaining trust accounts when they were subpoenaed in October 1973 and again in June 1974.<sup>76</sup>

# 1. CONSTRUCTION OF SWIMMING POOL AND ACCESSORIES—\$18,435.18

Rebozo signed a contract with the Catalina Pool Co., of Miami, Fla., on November 14, 1972, for a 20-by-40-foot pool to be constructed at President Nixon's residence at 500 Bay Lane, Key Biscayne.<sup>77</sup> A permit for the construction of this swimming pool was obtained by a representative of Catalina Pools, Inc., from the Metropolitan Dade County Board on November 15, 1972.<sup>78</sup> The permit reflects the pool to hold 31,000 gallons and the cost is estimated to be \$9,000. Construction on the pool began on November 17 and was completed on November 28, 1972. The documents received by the committee indicate that the bills for this work were to be sent to Wakefield, Hewitt & Webster, attorneys, Miami, Fla.<sup>79</sup>

The expenditures relating to this pool amounted in the aggregate to \$18,435.18, as follows:<sup>80</sup>

Paid to	For	Amount
Catalina, Inc.	Construction	\$10,100.00
Belcher Oil Co.	Pool heater	1,727.26
Climatrol Inc.	Screening around swimming pool	3,600.00
Paul's Carpets	Pool carpet	1,277.64
Brown Jordan	Pool furniture delivered to 478 Bay Lane	1,730.28
Total		18,435.18

The pool bills were paid from the following sources:<sup>81</sup>

Wakefield, Hewitt & Webster—Trust account:	Amount
First National Bank of Miami No. 11-611-1	\$14,977.64
Key Biscayne Bank No. 1-673	1,727.26
Cash from Rebozo	1,730.28
Total	18,435.18

The payments to Catalina Pools, Inc., were made from the Wakefield, Hewitt & Webster trust account in the First National Bank of Miami, as follows:

Date:	Amount
Nov. 20, 1972	\$1,000
Nov. 22, 1972	5,935
Nov. 23, 1972	2,000
Dec. 18, 1972	1,165
Total	10,100

<sup>76</sup> 26 *Hearings*, exhibits 55 and 56.

<sup>77</sup> 26 *Hearings*, exhibit 74 for copy of contract.

<sup>78</sup> 26 *Hearings*, exhibit 74 for Metropolitan Dade County building permit application.

<sup>79</sup> 26 *Hearings*, exhibit 75 for copy of notes of Catalina Pool Co.

<sup>80</sup> See discussion below.

<sup>81</sup> 26 *Hearings*, exhibits 76-82.

Each check has a notation reflecting that the transaction is on behalf of C. G. Rebozo.<sup>82</sup> Wakefield also indicated that Mr. Rebozo was his client in the case of each check. Ann Harvey, Herbert Kalmbach's secretary, stated that in the summer or fall of 1972, she received an inquiry from Mr. Rebozo asking for specification of the pool that had been constructed at the President's San Clemente estate.<sup>83</sup>

## 2. POOL HEATER

Documents obtained pursuant to a subpoena *duces tecum* on the Belcher Oil Co., indicate that Mr. Rebozo ordered a heater for the President's pool at 500 Bay Lane on or about November 15, 1972. The heater was paid for on February 20, 1973, by a check in the amount of \$1,727.26 drawn on funds in the Wakefield, Hewitt & Webster trust account No. 1-673, located at the Key Biscayne Bank. The check has a notation on it "Invoice dated January 31, 1973—Rebozo, C. G."<sup>84</sup>

The committee has not been furnished with the details of this trust account No. 1-673 since Mr. Rebozo, who was served with a subpoena in his capacity as president of the Key Biscayne Bank, has refused to comply with a subpoena *duces tecum*. The committee, however, received evidence that substantial amounts on behalf of Mr. Rebozo have been deposited in this account including at least \$3,500 in \$100 bills.<sup>85</sup> Wakefield indicated the Key Biscayne trust involved significantly greater sums related to Mr. Rebozo than his trust account at the First National Bank. Wakefield estimated deposits through his Key Biscayne Bank trust account on behalf of Mr. Rebozo of approximately \$200,000.<sup>86</sup>

## 3. SCREEN ENCLOSURE AT POOL

The evidence in possession of the committee reflects that on or about November 16, 1972, Mr. Charles G. Rebozo ordered from Climatrol Corp. a "screen enclosure installed at 500 Bay Lane, Key Biscayne, Fla."<sup>87</sup> Mr. Rebozo requested plans for the screens to be provided for the President's review at Camp David., Md.<sup>88</sup> Payments to Climatrol Corp. were made as follows:

Date	Bank	Account No.	Amount
Dec. 22, 1972.....	First National Bank of Miami.....	11-611-1	* 1,500
Do.....	do.....	05-791-9	** 1,100
Dec. 28, 1972.....	do.....	05-791-9	** 1,000

\* See 26 Hearings, exhibit 80 for copy of check No. 172 referred to above which has on the face of it the words "Rebozo, C. G."

\*\* See 26 Hearings, exhibit 81 for copy of related checks.

It will be noted that the first check was drawn on the Wakefield, Hewitt & Webster Trust Account while the remaining checks were drawn on the Thomas H. Wakefield Trust Account. Thus, Climatrol

<sup>82</sup> See 26 Hearings, exhibit 76 for copy of checks issued to Catalina Pool. *E.g.*, Nov. 20, 1972, check has notation "deposit on swimming pool contract for 500 Bay Lane, Key Biscayne, Fla.; Rebozo, C. G." and the file number in Mr. Wakefield's office for Rebozo.

<sup>83</sup> See interview of Ann Harvey, May 4, 1974.

<sup>84</sup> See 26 Hearings, exhibits 77 and 78 of the Belcher Oil Co. and the check in payment of the pool heater.

<sup>85</sup> See Wakefield interview, June 24, 1974, p. 2.

<sup>86</sup> *Id.* at p. 3.

<sup>87</sup> See invoice of Climatrol Corp., 26 Hearings, exhibits 79-81.

<sup>88</sup> Interview of Lee Latham, Climatrol salesman, May 17, 1974, p. 1.

was paid \$3,600 in three checks signed by Thomas H. Wakefield on two different trust accounts that he used to pay for work ordered by Rebozo.

With respect to the payment of \$1,500 on December 22, 1972, it is noted that Mr. Rebozo's funds in trust account 11-611-1 were overdrawn on December 18, 1972, in the amount of \$100. On December 22, 1972, currency amounting to \$1,600 was deposited, which cured the overdraft and provided the funds for the \$1,500 check to Climatrol. The deposit of cash funds in the law firm trust accounts and subsequent issue of checks from said trust accounts concealed the fact that cash payments furnished by Mr. Rebozo were provided to pay for work on behalf of President Nixon. As indicated before, this method of payment was totally unnecessary since checks could have been written on the President's Key Biscayne accounts or debit memos drawn against these same accounts by the President's lawyers who had been assigned that role.

#### 4. POOL CARPET

The payment of \$1,277.64 was made to Paul's Carpet, Inc., by check dated December 8, 1972, signed by Thomas H. Wakefield and drawn on his trust account in the First National Bank of Miami.<sup>91</sup> This check was for work ordered by Mr. Rebozo on November 21, 1972, which was to provide for the installation of 182 yards of green grass, 100 percent polypropylene, for cementing at the pool at the President's home at 500 Bay Lane.<sup>92</sup> Mr. Rebozo was billed at the Key Biscayne Bank for this expense.<sup>93</sup>

#### 5. POOL FURNITURE

Documents received by the committee indicate that Mr. Rebozo, on January 26, 1973, ordered furniture for the "pool area" to be delivered to "Mr. Robert H. Abplanalp, 478 Bay Lane, Key Biscayne, Fla."<sup>94</sup> Interviews and testimony before the committee, however, indicate that while Mr. Abplanalp is the owner of the property at 478 Bay Lane, he immediately leased it after purchase to the U.S. Government and this property does not have a pool.<sup>95</sup> In addition, Mr. Fabergas, an interior designer for the BBA architectural firm and Mr. Steve Morrison, assistant sales manager for the Brown-Jordan Co., who supplied the furniture at a cost of \$1,730.28, stated to the committee that Mrs. Nixon insisted that the fabric of the furniture match exactly with the fabric of the Presidential pool furniture, which had been purchased for the San Clemente property.<sup>96</sup>

The committee has ascertained that Rebozo paid the BBA architectural firm for expenditures made to Brown-Jordan Co. by making deposits directly to their account at the Key Biscayne Bank.<sup>97</sup> The first deposit was made in the BBA account on February 1, 1973, in the amount of \$1,519.50. The second payment was disclosed to the BBA

<sup>91</sup> 26 *Hearings*, exhibit 82.

<sup>92</sup> 26 *Hearings*, exhibits 83-84.

<sup>93</sup> 26 *Hearings*, exhibit 83.

<sup>94</sup> 26 *Hearings*, exhibit 85 is an order form for the furniture from BBA architectural firm.

<sup>95</sup> See interview of Mr. Perdue, June 1974.

<sup>96</sup> See interviews of Fabergas and Morrison, June 1974.

<sup>97</sup> 26 *Hearings*, exhibit 86.



firm in a letter dated February 20, 1973 from Mr. Rebozo's bookkeeper, who enclosed a deposit ticket from Mr. Rebozo to the firm's account for \$210.78. The deposit tickets and letter reflect the initials "CGR" and \$210.78 was deposited in cash.<sup>98</sup> The BBA firm did not have in their files the deposit ticket for the \$1,519.50, and, in an effort to determine if that deposit was also made in cash, a subpoena *duces tecum* was served on Mr. Rebozo, but he has refused to comply with the subpoena.

#### G. SUMMARY OF WAKEFIELD TRUST ACCOUNT PAYMENTS

A composite summary of the transactions relating to the construction of the pool and extension of the roof at 500 Bay Lane as noted in the two trust account records received from the First National Bank of Miami disclose the following:

Item:	Amount
Total currency deposited.....	\$23,500.00
Payments to:	
Catalina Pools, Inc.....	10,100.00
J. B. Clagett, Inc.....	6,508.11
Paul's Carpets, Inc.....	1,277.64
Climatrol .....	3,600.00
Belcher Oil Co.....	356.25
	21,842.00
Funds transferred to Wakefield, Hewett & Webster trust account No. 1-673 in Key Biscayne Bank.....	2,255.52
Total disbursements.....	24,097.52
Excess disbursed from firm-trust account 11-611.....	(597.52)
Funds in firm-trust account No. 05-791-9 from Oct. 31, 1968, to Oct. 31, 1972.....	76.24
Balance of excess disbursements.....	(521.23)

It is noted that the trust account No. 05-791-19 in the name of Thomas H. Wakefield, contains only transactions relating to Rebozo's activities. However, the trust account No. 11-611-1 in the firm's name is utilized by the law firm for more clients than just Rebozo.

The currency amounting to \$23,500 was deposited on Rebozo's behalf to trust accounts as follows:

Date	Amount	Account No.
Nov. 16, 1972.....	\$10,000	11-611-1
Nov. 24, 1972.....	10,000	05-791-9
Dec. 22, 1972.....	1,600	11-611-1
Jan. 25, 1973.....	200	11-611-1
Apr. 4, 1973.....	1,700	05-791-9
Total.....	23,500	

Other currency deposited in the trust accounts as revealed from the records furnished by the First National Bank of Miami and from interview of Thomas H. Wakefield are as follows:

<sup>98</sup> *Ibid.*

Account	Date	Amount
In First National Bank of Miami, Wakefield, Hewitt, and Webster—trust account 11-611-1..	July 27, 1972 July 2, 1973	\$3,500 2,150
In Key Biscayne Bank, Wakefield, Hewitt, and Webster—trust account 1-673.....	(*)	5,650 3,500
Total.....		9,150

\*Not known.

Accordingly, at least \$32,650 in currency has been deposited in three trust accounts on behalf of Rebozo.

According to Thomas H. Wakefield, the currency deposited as indicated above consisted of \$100 bills.<sup>99</sup> Wakefield invoked attorney-client privilege as to the source of the funds and indicated that his client was Rebozo.<sup>1</sup> However, Wakefield has stated that he never deposited currency on behalf of any client other than Rebozo.<sup>2</sup> The currency received by Mr. Rebozo from Richard Danner, representative of Howard Hughes, and at least half of that from A. D. Davis consisted of \$100 bills.

Furthermore, Rebozo reported in his September 1972 financial statement a total of \$12,234.72 cash on hand and in unrestricted bank accounts of which \$2,453.78 is the balance in Rebozo's six bank accounts.<sup>3</sup> According, therefore, to Rebozo's own figures, currency on hand would be approximately \$9,780.94.<sup>4</sup>

Mr. Rebozo's only known source of currency during this period was his bank salary for the months of September, October, and 2 weeks in November 1972. The cash he received from this source amounted to \$3,844.80 and assuming he spent no part of it, the full amount is being included in this computation as being available to Rebozo. Rebozo did not, during this period or at any time since January 1, 1969, draw a check to cash for his own use nor is there any indication that he received currency from business transactions. Therefore, Rebozo had a maximum of \$13,665.74 in currency on hand at the November 15, 1972, salary date which was just prior to the deposit of \$20,000 in currency in the Wakefield trust accounts. According to Rebozo's testimony and financial records made available to the committee, Rebozo did not have sufficient funds available on November 16 and November 24, 1972, at which time he made two \$10,000 cash deposits. These funds, amounting to \$20,000 were subsequently used for the President's behalf.

A summary of information available to the committee pertaining to the above analysis follows:

<sup>99</sup> Interview of Thomas H. Wakefield, June 24, 1974, p. 2.

<sup>1</sup> Mr. Wakefield did state that \$21,600 in \$100 bills deposited in the First National Bank trusts were on behalf of Mr. Rebozo. *Ibid.*

<sup>2</sup> Wakefield interview June 24, 1974, p. 2.

<sup>3</sup> See affidavit of Carmine Bellino, 26 *Hearings* 12944. See also 26 *Hearings*, exhibit 87.

<sup>4</sup> *Ibid.*

Cash on hand and in unrestricted bank accounts per financial statement of C. G. Rebozo, at Sept. 1, 1972-----	\$12, 234. 72
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Balance in Rebozo bank accounts at Sept. 1, 1972:

Account 1-34 in Key Biscayne Bank-----	1, 241. 61
Account 1-262 in Key Biscayne Bank-----	70. 97
Account 4-4179 in Key Biscayne Bank-----	472. 56
Account 1-0886 in Key Biscayne Bank-----	7. 08
Account 4 in Greater Miami Federal Savings & Loan-----	461. 56
Account 5-28170 in Manufacturers Hanover-----	200. 00

Total cash in banks-----	2, 453. 78
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Currency on hand, Aug. 31, 1972-----	9, 780. 94
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Currency from salary payments:

Sept. 15, 1972-----	776. 96
Sept. 30, 1972-----	776. 96
Oct. 15, 1972-----	776. 96
Oct. 31, 1972-----	776. 96
Nov. 15, 1972-----	776. 96

Total currency, assuming none spent-----	3, 884. 80
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Cash available at Nov. 15, 1972-----	13, 665. 74
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Deposit in Wakefield, Hewitt & Webster trust account, First National Bank of Miami, account No. 11-611-1, Nov. 16, 1972, in currency-----	10,000. 00
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Deposit in Thomas H. Wakefield trust account, First National Bank of Miami, in currency, account No. 05-791-9, Nov. 24, 1972-----	10, 000. 00
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Total currency payments-----	20, 000. 00
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Currency used in excess of currency from known sources-----	(6, 334. 26)
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An additional analysis using earlier records also shows a shortage of currency.

Mr. Rebozo reported in his September 1971 financial statement a total of \$47,520.49 cash on hand and in unrestricted bank accounts. His bank balance was in excess of this amount and therefore, no currency was reported by Rebozo as being on hand as of September 1, 1971.<sup>5</sup> Rebozo's only known source of currency from September 1, 1971, through November 30, 1972, was his bank salary. During this period, Rebozo received \$23,246.52 in currency for his bank account but never issued any checks or debits from which currency was derived for his use. Assuming that Rebozo spent no part of his salary other than what he deposited, he had only \$12,446.52 in currency from known sources—other than campaign funds—available to him during a period when he deposited \$23,500 in the Wakefield trust accounts on the President's behalf. Therefore, Rebozo must have had available to him at least \$11,053.48 from some previously undisclosed source at a time when he had access to currency derived from campaign contributions.<sup>6</sup>

<sup>5</sup> 26 Hearings, exhibit 87.

<sup>6</sup> See Bellino affidavit, 26 Hearings 12944. Also note that according to an intangible personal property report filed by Rebozo with the State of Florida, as of Jan. 1, 1972, he declared cash on hand of \$1,000.

The information is summarized below :

Cash on hand and in bank at Sept. 1, 1971 per financial statement----	\$47, 520. 49
Currency (all of above is accounted for in banks)-----	none
Currency received as salary from Key Biscayne Bank from Sept. 1, 1971 to Nov. 30, 1972-----	23, 246. 52
Currency deposited during above period-----	10, 800. 00
Currency available from known sources-----	12, 446. 52
Currency payments for President Nixon's properties in Key Bis- cayne-----	23, 500. 00
Currency used in excess of available currency from known sources--	(11, 053. 48)

These two analyses indicate that Rebozo had some previously undisclosed source of currency from which he drew funds on the President's behalf. According to his testimony and records, the only such source of currency available to him were campaign contributions.

## H. REBOZO'S FINANCIAL SITUATION

According to documents available to the committee, a substantial percentage of Rebozo's reported gross income went for the payment of interest on loans. A study of Mr. Rebozo's financial statements covering the period from September 1, 1968 to September 1, 1973, reflects a constant borrowing of funds from various banks and individuals in Dade County and also outside of Florida. His principal assets include stock in the Key Biscayne Bank and Fisher's Island, Inc.

Rebozo's total interest payments on loans during the 5-year period amounted to almost \$500,000 while his reported gross income during this period averaged to only \$24,000 a year above his itemized deductions.<sup>7</sup> Therefore, a considerable portion of his reported gross earnings, averaging approximately 72 percent, went to the payments of interest on Rebozo's loans.

### 1. NO RECORD OF POOL COSTS IN PRESIDENT'S BOOKS

Although at least \$18,435.19 was expended in connection with the swimming pool on the President's property at 500 Bay Lane, no record whatsoever appeared in the 1972 or the 1973 accounting books of the President maintained by Arthur Blech, the President's certified public accountant.<sup>8</sup> However, when Blech was reviewing the accounts in early 1974, in connection with the preparation of the President's 1973 income tax return, he found a check, signed by Rose Mary Woods—the first she had ever signed on the President's account.<sup>9</sup>

The check was dated August 18, 1973 and was of further interest because it was payable to Mr. Rebozo, in the amount of \$13,642.52. Blech noted also that the check was typewritten and that two different typewriters had been used from the typing on the check. As he had no idea what this check could have been for, he posted the item to "Account No. 999—Suspense." Thereafter, he inquired of Ann Harvey and Frank De Marco and learned the payment was for the construction of a swimming pool which had occurred in December 1972, and the check to Rebozo for \$13,642.52 dated August 18, 1973 was a reimbursement for payments he had made.<sup>10</sup>

<sup>7</sup> Documentation for the above analysis may be found in the committee's files. The committee did not feel it appropriate to reveal extensive personal financial data.

<sup>8</sup> See Arthur Blech interviews, Apr. 18, 1974, June 3 and 22, 1974.

<sup>9</sup> Blech interview, June 3, 1974.

<sup>10</sup> *Ibid.*

It is of interest to note that at the time of issue of this check in August 1973, Rebozo had returned \$100,000 to Hughes, was under active investigation by the Internal Revenue Service and the Senate Select Committee was indicating interest in the Hughes contribution.

## 2. THE FIREPLACE

Other documents received by the committee indicate that Rebozo ordered the construction of a fireplace for the President's home at 516 Bay Lane <sup>11</sup> and instructed the contractor, J. H. Clagett, Inc., that the billing should be sent to Thomas H. Wakefield.<sup>12</sup> The records received from Clagett indicate that the bill of \$3,586 was paid on March 26, 1973, but Clagett has been unable to provide the form of the payment, that is, whether it was cash deposited in his Key Biscayne Bank account or whether it may have been a Wakefield Trust Account check. This item was not paid from the President's bank accounts; nor was it paid from Rebozo's bank accounts furnished to the committee.<sup>13</sup>

The committee attempted to determine how payment was made by service of a subpoena on Mr. Charles G. Rebozo as president of the Key Biscayne Bank but he has failed to comply with the subpoena.

## 3. THE POOL TABLE

The committee has also received documents and information that Mr. Rebozo paid \$1,138.30 by personal check on March 19, 1970 to William Brandt's Billiard Supply Co. for a "pool table" ordered by Mr. Rebozo at 490 Bay Lane.<sup>14</sup> This pool table has a gold covering.<sup>15</sup> However, Mr. James Perdue, who assisted in the work being done on the President's properties, stated there is a pool table in President Nixon's home at 516 Bay Lane and his description of this cover was identical to the one ordered by Rebozo as described above.<sup>16</sup>

## 4. FUEL OIL PAYMENTS

In addition to the payments to Belcher Oil Co. for the pool heater, three payments were made to them from the two trust accounts in the First National Bank of Miami as follows:

Date:	Amount
Jan. 25, 1973-----	\$138. 50
Apr. 24, 1973-----	75. 88
May 16, 1973-----	141. 87

These checks are in payment of fuel oil delivered to the President's home at 500 Bay Lane and believed to have been used in the pool heater mentioned above.<sup>17</sup>

More recent invoices including the invoice of June 29, 1973, indicate billings to Key Biscayne Bank for work performed at the President's home on 500 Bay Lane. For example, a cashier's check signed by Vernon L. Tucker, an officer of the Key Biscayne Bank, in the amount

<sup>11</sup> 26 *Hearings*, exhibit 88 reflects copy of estimate furnished for construction.

<sup>12</sup> J. H. Clagett interview, June 14, 1974.

<sup>13</sup> See Bellino affidavit, 26 *Hearings* 12944.

<sup>14</sup> 26 *Hearings*, exhibit 89 is copy of billing from Brandt. See also Bellino affidavit.

<sup>15</sup> Interview with Mrs. Brandt, June 4, 1974, p. 1.

<sup>16</sup> See Perdue interview, June 1974.

<sup>17</sup> See 26 *Hearings*, exhibits 91 and 92 for copies of checks and bills.

of \$38.16 was paid to the Belcher Oil Co. The space provided for the remitter was not filled in, and thereby does not disclose who furnished the funds for the purchase of the cashier's check.

# I. THE FLORIDA NIXON FOR PRESIDENT COMMITTEE ACCOUNT

Mr. Rebozo maintained an account in the Key Biscayne Bank in the name of The Florida Nixon for President Committee account No. 1-0455. Although efforts have been made to obtain a copy of this account and Rebozo promised to furnish a copy of the account to the committee, he has failed to do so. Mr. Rebozo was a signator to this account and at least \$426.87 was used from this campaign fund for the personal benefit of President Nixon. On February 19, 1969, Rebozo issued his own check in this amount of \$426.87 to reimburse the campaign account.<sup>18</sup> The check stub for check number 3867 reads "Reimb. of various bills advanced for RMN, Pers."

On April 14, 1969, Rebozo issued check No. 1150, against funds in the Florida Nixon for President Committee account, payable to Herbert W. Kalmbach in the amount of \$216.18.<sup>18a</sup> Part of these funds were subsequently used to pay expenses of Jack Caulfield, who conducted special investigatory work for John Ehrlichman.

The following day, Mr. Rebozo issued a check for \$6,000 payable to Thomas H. Wakefield—special account, drawn on the Florida Nixon for President Committee, and thereupon opened a new account, the Thomas H. Wakefield—special account No. 2-1691 in the Key Biscayne Bank.<sup>19</sup> The signators were Thomas H. Wakefield and Charles G. Rebozo,<sup>20</sup> with either one authorized to sign. No address was shown for the mailing of statements—the only notation being "Hold Statements."<sup>21</sup>

Rebozo has testified that the \$6,000 represented funds that were owed to him for "one thing or another." He further testified that he was "worried about how it might look if he wrote a check to himself." He testified that he created this special account in his attorney's name and wrote a check to it in order to receive the funds "without drawing them to attention."<sup>22</sup>

Rebozo continued to sign all checks or authorized charges until the final closing of this account. The funds in this account were disbursed by Rebozo in the same manner as he handled the funds in the Florida Nixon for President committee account except that now the nature of the funds, that is, campaign funds, was concealed through the use of said special account.

Disbursements from this account were as follows:

<sup>18</sup> See Bellino affidavit, 26 *Hearings* 12944.

<sup>18a</sup> 26 *Hearings*, exhibit 93.

<sup>19</sup> Wakefield was not aware of this account until Rebozo told him after it was opened. Wakefield was not aware of the source of the funds originally deposited in this account. 24 *Hearings* 11297.

<sup>20</sup> 26 *Hearings*, exhibit 94.

<sup>21</sup> 26 *Hearings*, exhibit 95 for statements.

<sup>22</sup> 21 *Hearings* 9946. Rebozo agreed to produce the Florida Nixon for President committee records supporting his statement but as mentioned above later refused to produce them for the committee.

Date	Paid To	Amount	Remarks
May 6, 1969	Herbert W. Kalmbach.....	\$200.00	Subsequently paid to Jack Caulfield.
May 23, 1969	Bank charge for checks.....	4.66	
May 29, 1969	Pitney-Bowes Inc.....	124.80	Invoice No. 65-182408.
July 25, 1969	Herbert W. Kalmbach.....	1,000.00	Subsequently paid to Tony Ulasewicz.
Sept. 10, 1969	Thunderbird Studio.....	108.16	Balance due, pictures at reception of President Nixon.
June 28, 1972	Wakefield, Hewitt & Webster trust account No. 1-673.	4,562.38	Use discussed below.
Total.....		6,000.00	

Rebozo has refused a committee request that he provide documents showing the purpose of the original transfer of \$6,000 of campaign funds to the Thomas H. Wakefield special account.

It will be noted that this special account, derived from 1968 campaign funds, maintained a balance of \$4,562.38 for almost 3 years. On June 28, 1972, Rebozo closed it out by transferring the funds through an advice of charge<sup>23</sup> to the Wakefield, Hewitt & Webster trust account No. 1-673 in the Key Biscayne Bank. The same day, a check was issued for \$5,000 against account 1-673, and the proceeds of this check were deposited in the Wakefield, Hewitt & Webster trust account No. 11-611-1 in the First National Bank of Miami.<sup>24</sup> Also on the same day, a check was issued from this account purchasing a cashier's check from the First National Bank of Miami, payable to Harry Winston in the amount of \$5,000.<sup>25</sup> These funds were used to purchase platinum diamond earrings, a birthday gift to Mrs. Nixon from President Nixon, as indicated hereinafter.

#### J. PURCHASE OF EARRINGS FOR MRS. NIXON FROM HARRY WINSTON

The records of Harry Winston, a jeweler in New York City, reflect that on March 17, 1972, a set of platinum diamond earrings containing: "*Tops*, 16 pear shape diamonds; *Bottoms*, 2 pear shape diamonds, 2 tapered baguette diamonds" were delivered to Lt. Cmdr. Alex Larzelere who was then attached to the White House staff. The consignment slip of March 17, 1972, indicates in handwriting "Rose Mary" in the upper left-hand corner. Lieutenant Commander Larzelere delivered the earrings to his superior at the White House and was told that they were for President Nixon's gift to his wife on her birthday.<sup>26</sup> On the copies of the bills addressed to President Richard Nixon as indicated in handwriting of the salesman, "please send to Rose Mary Woods."

The full cost of these earrings is shown as \$5,650, with payment being made as follows according to Harry Winston's records:

<sup>23</sup> 26 *Hearings*, exhibit 96 is a copy of the advice of charge of June 28, 1972, which transferred the \$4,562.38 from the Wakefield special account in the Key Biscayne Bank to the Wakefield, Hewitt & Webster trust account, in the First National Bank.

<sup>24</sup> 26 *Hearings*, exhibit 97 is a copy of the deposit ticket reflecting that transaction.

<sup>25</sup> 26 *Hearings*, exhibits 97 and 98.

<sup>26</sup> 26 *Hearings*, exhibit 99 reflects records of Harry Winston and the purchase of \$5,000 earrings. Winston's records further reflect that the earrings were ordered on the President's account and that a bill was sent to President Richard M. Nixon at the White House which was delivered by hand by a salesman who is now deceased. See also interview of Lt. Comdr. Alex Larzelere, June 19, 1974, p. 1. Mrs. Nixon, in fact, had her 60th birthday on Mar. 17, 1972. See *Who's Who, Inc.*, 1972, p. 374.

Paid to	Amount	Deposited at
President Richard M. Nixon .....	\$5,000	First National Bank of Miami.
Do. ....	560	Riggs National Bank.
Rose Mary Woods .....	90	First National Bank of Washington.
Total .....	5,650	

The \$5,000 check, as previously stated was a cashier's check drawn on the First National Bank of Miami and derived from the Wakefield, Hewitt & Webster, trust account No. 11-611-1 in the First National Bank. The funds in this account were transferred from the Wakefield firm trust account No. 1-673 in the Key Biscayne Bank and \$4,562.38 was received by the firm's trust account from the Thomas Wakefield special account No. 2-1691 in the Key Biscayne Bank. The funds in the special account were derived from the Florida Nixon for President committee. Therefore, \$4,562.38 of funds originally derived from campaign contributions were used to purchase platinum diamond earrings.

This complex four-stage process of payment for this gift concealed the fact that the funds originated from contributions to the 1968 campaign and were ultimately used by Rebozo on behalf of President Nixon.

#### K. PRESIDENT NIXON BENEFICIARY OF LOAN NOTE SIGNED BY C. G. REBOZO

The examination of the President's assets and liabilities dated August 20, 1973, by the accounting firm of Coopers & Lybrand noted that the President had purchased property at 500 Bay Lane, Key Biscayne, Fla., "consisting of land, building and furnishings" on December 19, 1968, from Senator George A. Smathers for \$125,000. Their report also noted the President had purchased land at 516 Bay Lane for \$127,928 and the down payments for these properties came from the proceeds of a loan obtained in the amount of \$65,000 on December 19, 1968, from the First National Bank of Miami.

When President Nixon acquired the Key Biscayne properties, he assumed the existing mortgages and a note for \$65,000 which was executed by C. G. Rebozo with the First National Bank of Miami. This note was dated December 19, 1968, payable 32 days later at 7 percent interest.<sup>27</sup> The proceeds of this note were used to pay the owners of the property as follows:

Paid to:	Amount
Senator and Mrs. George A. Smathers .....	\$43,497.00
Manuel Arca, Jr., and Evora Bonet de Arca .....	20,243.00
Closing expenditures .....	643.00
	64,383.00
Cash remitted to President Nixon .....	617.00
Total .....	65,000.00

Wakefield stated that Rebozo paid him legal fees incurred for the purchase of 500 and 516 Bay Lane and he considered Rebozo to be his client for said purchase.<sup>28</sup>

<sup>27</sup> 26 *Hearings*, exhibit 100 is a copy of the note referred to.

<sup>28</sup> Wakefield interview, June 24, 1974.



This transaction handled by Rebozo not only provided the President with the Key Biscayne properties without the investment of any funds on his part (in fact the President received \$617) but the obligation on the \$65,000 note was accepted by C. G. Rebozo. In this connection, the liability ledger includes this \$65,000 loan in the name of Richard M. and Patricia R. Nixon,<sup>29</sup> while the demand tickler sheet was in the name of C. G. Rebozo.<sup>30</sup>

Although this loan was due January 20, 1969, it was changed on that date to a demand loan and was not paid until September 4, 1969. On that date Mr. Richard Stearns, senior vice president of the Key Biscayne Bank forwarded a cashier's check charged to the President's account in the Key Biscayne Bank with letter reading as follows: "Enclosed you will find our cashier's check No. 10864 in the amount of \$65,763.75 of which \$65,000 is payment on the principal note of Mr. C. G. Rebozo and \$763.75 for interest."<sup>31</sup>

In the report of the Joint Committee on Internal Revenue Taxation on their examination of President Nixon's tax returns, evidence was adduced that on March 12, 1973, the sum of \$65,000 was transferred from the President's account to Mr. Rebozo as a 3-year loan payable to Mrs. Patricia Cox at 8 percent interest. This amount was part of the proceeds of the sale of property on December 28, 1972, which property had been acquired by the President from Cape Florida Development, Inc.

#### L. SUMMARY OF TOTAL PAYMENTS ON BEHALF OF PRESIDENT NIXON

A summary of the payments made by Rebozo on behalf of the President as disclosed from documents and interviews discussed herein reflects a pattern of Rebozo expenditures of at least \$50,000. The committee has obviously not been able to identify conclusively all the payments made by Rebozo as the pertinent records desired from Rebozo and his Key Biscayne Bank & Trust Co. have never been produced and Rebozo has refused to comply with subpoenas *duces tecum* served on him. Any further investigation by other investigatory bodies should focus initially on obtaining the trust account records from the Key Biscayne Bank that this committee has been unable to obtain.

While the committee has been unable to determine, based on documents received to date, if the transfer of \$65,000 to Mr. Rebozo on March 12, 1973, was related in any way to the note Mr. Rebozo signed on behalf of President Nixon for \$65,000, the committee's letter to Mr. St. Clair of June 6, 1974, asked for any information or documents from the President which might clarify any relationship between the two transactions. The letter inquired:

The Committee would appreciate learning under what circumstances Mr. Rebozo incurred the above described obligation [referring to the signing of the note] and what, if any, consideration he received for incurring said obligation.

As noted below, the committee received a response to its letter from counsel St. Clair which failed to respond to any of the specific issues raised by the committee's inquiry.<sup>32</sup>

<sup>29</sup> See 26 Hearings, exhibit 101 for liability ledger sheet.

<sup>30</sup> See 26 Hearings, exhibit 102 for demand tickler sheet.

<sup>31</sup> See 26 Hearings, exhibit 103 for copy of letter dated Sept. 4, 1969.

<sup>32</sup> 26 Hearings, exhibit 1 is a copy of the letter to Mr. St. Clair of June 6, 1974.

## M. \$20,000 CASH FUNDS IN REBOZO'S POSSESSION—SEPTEMBER 1969

Since 1964, Rebozo has followed the practice of preparing and mailing to banks from which he has received loans, a financial statement as of September 1 of each year, showing his assets, liabilities, net worth, and other financial data.

Of interest in connection with his September 1, 1969, financial statement is the fact that he included therein cash onhand of \$20,000. As the evidence tended to show, this is the month during which Richard Danner delivered a \$50,000 campaign contribution from Howard Hughes to Bebe Rebozo.

Specifically, the financial statement executed on October 9, 1969, and mailed to the Manufacturers-Hanover Trust Co.<sup>33</sup> showing his assets, liabilities, and net worth as of September 1, 1969, includes as "cash on hand, and unrestricted in banks, \$23,741.36."

Mr. Rebozo's checking account No. 1-34 in the Key Biscayne Bank shows a balance as of September 1, 1969, of \$3,741.36. The difference between the amount in the bank (\$3,741.36) and the amount shown on his financial statement, (\$23,741.36) is \$20,000, which sum would have to be currency. It is of interest to note that the following year, September 1, 1970, Rebozo's financial statement shows "Cash on hand and unrestricted in banks, \$44,691.20."<sup>34</sup> This amount agrees to the penny with the balance in Rebozo's bank account No. 1-34 at the Key Biscayne Bank.

When questioned at executive session on March 21, 1974,<sup>35</sup> Rebozo denied the \$20,000 represented cash. He stated that funds in a savings account in a bank in Key West were included in his cash. However, the documentation he forwarded to the committee does not support his statement since the amount in the savings account of the First Federal Savings & Loan of Key West, Fla., is in the name of Monroe Land & Title Co., and the balance is less than \$2,000.<sup>36</sup>

When questioned on March 21, 1974, Rebozo also denied that the \$20,000 was cash that Richard Danner had brought to him as part of the Hughes contribution.

In addition, Rebozo was asked if he ever had a sum of \$50,000 in cash since January 1, 1969, to which Rebozo answered, "No; I never had that much cash, not deposited."<sup>37</sup> Mr. Rebozo was also questioned as to whether he had ever loaned any money to the President since January 1, 1969, and answered, "I haven't but the bank has. Wait a minute, not since January of 1969, though."<sup>38</sup> Rebozo was also asked, "And have you ever given any gifts of cash or stock or any other negotiable commodity of value in excess of \$1,000 to the President?" Mr. Rebozo answered, "No." Rebozo was also asked, "Have you ever cashed any checks in excess of \$10,000 in the President's behalf for cash?" and again Rebozo answered "No."<sup>39</sup>

In addition to the expenditures already commented upon, Rebozo's personal bank records furnished to the committee, reveal he issued personal checks for a variety of expenses incurred on President Nixon's

<sup>33</sup> 26 *Hearings*, exhibit 87 contains a copy of the financial statement referred to.

<sup>34</sup> 26 *Hearings*, exhibit 87.

<sup>35</sup> 21 *Hearings* 10072-73.

<sup>36</sup> Details in passbook may be found in committee files.

<sup>37</sup> 21 *Hearings* 10072.

<sup>38</sup> 21 *Hearings* 10133.

<sup>39</sup> *Ibid.*

Key Biscayne properties between January 24, 1969, and May 12, 1970, which checks total \$832.32.<sup>40</sup> Of this sum, Rebozo's records reflect he received one reimbursement from the President, in the amount of \$127.77 on February 14, 1969. The records maintained by the President's accountant reviewed by the committee also reflects that the President had made only one reimbursement of \$127.77 through May 31, 1973.

#### N. THE PRESIDENT'S RESPONSE

In a letter of June 6, 1974, Chairman Ervin and Vice Chairman Baker furnished most of the above-described information to Mr. James St. Clair, Counsel to the President. The letter noted as its purpose that :

The committee has received certain evidence that may relate to information and documents in possession of the President or his representatives. We wish to afford the President an opportunity to comment on this material prior to the filing of this report. We would appreciate any assistance you can provide in clarifying the issues set forth below and in aiding us in reviewing this evidence. Information provided will be especially helpful in those areas where the committee has not had access to all available documents, and where systematic analysis has been impossible since only random documentation has been provided us.<sup>41</sup>

On June 24, 1974, the committee received a response to its letter from Mr. St. Clair in behalf of the President. After characterizing the committee's letter and indicating he had reviewed it with the President on June 20, 1974, Mr. St. Clair makes two general responses:

The President has made public an audit of his affairs dated August 20, 1973, certified by Coopers & Lybrand, which, he is confident, reflected fully his receipts and expenditures for the period covered.

I believe that the only useful comment that can be made in response to your letter is to convey the President's assurance that he never instructed C. G. Rebozo to raise and maintain funds to be disbursed for the President's personal behalf, nor so far as he knows was this ever done.<sup>42</sup>

As a result, the President through his counsel has failed to respond to any of the specific inquiries delineated in the committee's letter and, therefore, has not provided information that might assist the committee in its review of these matters.

#### O. REBOZO'S RESPONSE

When Mr. Rebozo was questioned at an executive session,<sup>43</sup> the committee did not have in its possession information which disclosed Rebozo's substantial expenditures on behalf of President Nixon. He was asked if on occasion he had paid "miscellaneous bills for 500 Bay Lane." Rebozo replied in the affirmative; and when he was asked if

<sup>40</sup> See schedule of the payments referred to above in the committee's files.

<sup>41</sup> 26 *Hearings*, exhibit 1 is a copy of the committee's letter to the President's counsel, Mr. St. Clair on June 6, 1974.

<sup>42</sup> See 26 *Hearings*, exhibit 2 for copy of St. Clair's letter to Senators Ervin and Baker.

<sup>43</sup> 21 *Hearings* 10078.

he had been reimbursed for these expenditures, he answered, "Yes, I say, usually I'm not going to nitpick with the President. If there's something I think he should have, I might just go ahead and do it without even him knowing about it. He just doesn't concern himself at all with financial problems ever; he never has."

The committee has subpoenaed from Rebozo and from the Key Biscayne Bank & Trust Co. records of expenditures during the relevant periods paid for or on behalf of President Richard Nixon, Rose Mary Woods, F. Donald Nixon, Donald A. Nixon, and Edward Nixon. Rebozo had, both individually and in his capacity as president of the Key Biscayne Bank & Trust Co., refused to produce these records.<sup>44</sup> After the facts discussed above were developed by the committee, a subpoena was issued for Rebozo's appearance and served on his attorney, thus providing Rebozo with an opportunity to respond. His attorney informed the committee that Rebozo had left the country and that he was no longer authorized to accept service on Rebozo's behalf.

#### P. OTHER RECIPIENTS OF CAMPAIGN FUNDS

As noted above, the committee received evidence that Rebozo advised Kalmbach that he had furnished part of the funds received from Hughes to the President's brothers.

Both F. Donald and Edward Nixon have denied under oath to the Select Committee having received any funds or gifts from Mr. Charles G. Rebozo.

The committee, however, has been unable to make a conclusive determination as to whether Messrs. Edward or F. Donald Nixon received any of the proceeds of the Hughes contribution to Rebozo due to the failure and refusal of both to comply with the subpoena *duces tecum* which sought certain documents and records deemed by the committee pertinent to its inquiry, and to testify after being advised questions would relate to whether either received the proceeds of campaign contributions.

The chart on the following page traces currency and bank funds controlled by C. G. Rebozo and expended for the benefit of President Nixon and others. The figures reflected in the chart do not reflect necessarily all such possible transactions due to Mr. Rebozo's failure to comply fully with subpoenas served on him for records relating to those transactions.

The chart does reflect, however, the flow of cash currency in and out of three trust accounts and a special account, all in the name of Mr. Rebozo's attorney, Thomas H. Wakefield. The chart also reflects amounts expended for alterations, additions, and improvements on the President's Key Biscayne properties and for other items purchased in his behalf.

The chart, for example, shows that \$6,000 of campaign contributions were deposited in the Florida Nixon for President Committee, which funds were later transferred to the Thomas H. Wakefield special account at the Key Biscayne Bank. The chart then shows the flow of \$4,562.38 from the Wakefield special account to the Wakefield, Hewitt & Webster trust account, and on the same date \$5,000 was withdrawn from said trust account and deposited in the Wakefield,

<sup>44</sup> See 26 *Hearings*, exhibits 55 and 56 for copies of subpoenas of the Select Committee.

Hewitt & Webster trust account at the First National Bank of Miami. On the same date as that transfer, a cashier's check was purchased at the First National Bank of Miami, which was furnished to Harry Winston, a jeweler in New York, for the purchase of platinum and diamond earrings, furnished by President Nixon to his wife on her birthday in March of 1972.

## XI. A SUMMARY ANALYSIS OF CONFLICTING EVIDENCE

In the course of its investigation into the receipt by Rebozo of \$100,000 from Hughes, the Senate Select Committee has received considerable evidence, a significant portion of which reflects conflicts in principal witnesses' testimony. To allow for an appropriate review of rather complex factual materials, a summary analysis of said conflicting testimony on important issues is presented here.

### A. INITIATOR OF THE CONTRIBUTION

When asked on March 20, 1973, who brought up the Hughes contribution first, Mr. Rebozo replied, "Danner brought it up with me. I had no reason to bring it up with Danner. He was a practicing lawyer in Washington and was not even connected with Hughes."<sup>46</sup> In his testimony on December 18, 1973, Mr. Richard Danner was asked if it was Danner "who initiated the discussions about the possibility of getting a contribution from the Hughes Tool Co. or Mr. Hughes."<sup>47</sup> Danner replied, "No, I had no contact with the Hughes Tool Co., none whatsoever in that respect. I didn't know any of the principals involved. And when the question arose as to whether I could do anything in that light, I agreed to talk to Ed Morgan."<sup>48</sup>

Mr. Rebozo also testified on March 20, 1974, that he never met with candidate Nixon and Richard Danner to discuss the possibility of obtaining a contribution from Howard Hughes in the 1968 campaign.<sup>49</sup> However, Mr. Richard Danner testified on December 18, 1973, that Mr. Nixon was present at the first discussion of a possible Hughes contribution and that either candidate Nixon or Mr. Rebozo first asked Danner to ascertain if Hughes would make a contribution.<sup>50</sup>

After Rebozo denied that candidate Nixon was present in the first discussion about the Hughes contribution in 1968, Danner was asked again about candidate Nixon's presence in an executive session on June 12, 1974. Danner again confirmed that President Nixon and Rebozo had both been present in the first meeting when the Hughes contribution was brought up.<sup>51</sup>

### B. ACTUAL DELIVERY OF FUNDS

On March 20, 1974, Mr. Rebozo testified that he received the first \$50,000 cash contribution from Richard Danner on July 3, 1970, at the staff mess at San Clemente, and that he received the second \$50,000

<sup>46</sup> 21 *Hearings* 9940.

<sup>47</sup> 20 *Hearings* 9503.

<sup>48</sup> *Ibid.*

<sup>49</sup> 21 *Hearings* 9940.

<sup>50</sup> 20 *Hearings* 9504.

<sup>51</sup> 24 *Hearings* 11439.

cash contribution from Richard Danner in August 1970 at his office in the Key Biscayne Bank in Key Biscayne, Fla.<sup>52</sup>

However, when Rebozo first met with IRS agents on May 10, 1973, he testified that he received the first delivery in late 1968 or early 1969 and that he received the second delivery 2 or 3 months later. At that time, Rebozo could not recall whether he received the first package in Key Biscayne or San Clemente, but that he had received one package in each location.<sup>53</sup>

Mr. Rebozo also told the IRS agents on May 10, 1973, that Robert Maheu may have been present in Florida when Rebozo received the contribution in Florida, but was not present at the time of the delivery.<sup>54</sup>

On July 10, 1973, when Rebozo met again with IRS agents, he recalled that the first contribution had been in 1969 at the San Clemente Inn, since, to the best of his knowledge, Danner had never been inside the San Clemente compound.<sup>55</sup> It was not until his October 8, 1973, interview with the Senate Select Committee that Rebozo finally fixed on July 3, 1970, as being the date of the first contribution and the San Clemente Western White House as being the place for that delivery.<sup>56</sup>

However, on June 18, 1973, Rebozo told Kenneth Whitaker, special agent in charge of the Miami FBI office, that he had received \$50,000 in cash from Richard Danner in 1969.<sup>57</sup>

In addition, Richard Danner testified before the Senate Select Committee on December 18, 1973, that he could not recall whether the first delivery of cash was in the late summer of 1969 in Key Biscayne, Fla., or on July 3, 1970, at San Clemente.<sup>58</sup> Similarly, Robert Maheu also places the first delivery of \$50,000 in 1969. Maheu testified in a deposition on July 4, 1973, that "Mr. Danner made the first delivery which would have been some time in 1969."<sup>59</sup>

Similarly, Robert Maheu was certain that he was present at the delivery of the cash in Key Biscayne. He recalls seeing the envelope containing the cash passed from Danner to Rebozo, and recalls that Danner, Rebozo, and Maheu left Rebozo's home in Rebozo's car to dine at Sol Mandel's Restaurant after Danner had given Rebozo the cash.<sup>60</sup>

Richard Danner completely supported Maheu's version of the first delivery in Danner's first interview with the IRS on May 15, 1972.<sup>61</sup> Danner subsequently changed his IRS testimony on July 5, 1973, after he had discussions about the matter with Rebozo in the summer of 1972.<sup>62</sup>

In one of his interviews with the Select Committee staff, Rebozo also stated that it was his recollection that he received the Key Biscayne contribution at his home rather than at his bank office.<sup>63</sup> On

<sup>52</sup> 21 *Hearings* 9963, 9976, 9982.

<sup>53</sup> IRS interview, May 10, 1973, p. 2.

<sup>54</sup> *Id.* at p. 2.

<sup>55</sup> IRS interview, July 10, 1973, p. 6.

<sup>56</sup> See Oct. 8, 1973, interview with Rebozo.

<sup>57</sup> See letter from FBI Director Clarence Kelley to Commissioner Donald Alexander, in the files of IRS.

<sup>58</sup> 20 *Hearings* 9531.

<sup>59</sup> Robert Maheu, civil deposition, July 4, 1973, vol. 12, p. 1037.

<sup>60</sup> Robert Maheu interview, Jan. 20, 1973.

<sup>61</sup> See May 15, 1972, IRS interview with Danner, p. 18.

<sup>62</sup> 20 *Hearings* 11477.

<sup>63</sup> See Oct. 17, 1973, Rebozo interview.

# Q. SUMMARY CHART

SUMMARY	
KEY BISCAYNE PROPERTIES -	
PLATINUM EARRINGS -	\$45,977.40
PURCHASE OF DIAMONDS -	5,000.00
STOCK PURCHASED -	2,150.00
MRS. JANE HARRISON -	3,454.49
TOTAL	\$56,581.89

C. G. REBOZO  
CASH CURRENCY  
1968 BALANCE AT LEAST \$ 6,000  
HOWARD HUGHES - SEPT. 1969 50,000  
JULY 1970 50,000  
A. D. DAVIS APRIL 1972 50,000  
\$156,000

OUT  
\$ 1,654.00  
1,681.00  
210.78  
1,519.50  
11,700.00  
11,800.00  
3,500.00  
3,500.00  
2,150.00  
\$37,715.58 TOTAL

UNKNOWN  
SOURCE OF FUNDS  
OUT  
\$3,586.00  
295.65  
100.00  
\$3,981.65 TOTAL

CHART SHOWING TRACING OF CURRENCY  
AND BANK FUNDS  
CONTROLLED BY C. G. REBOZO  
AND USED FOR THE BENEFIT OF  
PRESIDENT NIXON  
AND OTHERS

C. G. REBOZO  
ACCT 1-34  
KEY BISCAYNE BANK  
OUT  
\$ 243.57  
1,138.80  
11,978.84  
426.87  
832.32

C. G. REBOZO  
1968  
UNKNOWN  
CONTRIBUTORS

THOMAS H. WAKEFIELD-  
TRUST ACCOUNT  
05-791-9  
OUT FIRST NATIONAL BANK OF MIAMI IN  
\$2,100.00  
1,277.64  
6,508.11  
1,750.00 Trf  
75.88  
\$11,700.00

WAKEFIELD, HEWITT &  
WEBSTER-TRUST ACCT.  
11-611-1  
OUT \$10,100.00  
1,500.00  
138.50  
141.87  
1,800.52 Trf  
455.00 Trf  
5,000.00  
3,454.49  
2,150.00  
IN \$ 1,750.00 Trf  
11,800.00  
5,000.00  
3,500.00  
2,150.00

WAKEFIELD, HEWITT  
WEBSTER-TRUST ACCT.  
1-673  
OUT \$1,727.26  
5,000.00  
IN \$1,800.52 Trf  
455.00 Trf  
3,500.00  
4,562.38

FLORIDA NIXON FOR  
PRESIDENT COM.  
ACCT 1-0455  
KEY BISCAYNE BANK  
OUT (\$6,000.00) IN  
[216.18] RE-IMB \$426.87

THOMAS H. WAKEFIELD-  
SPECIAL ACCT  
#2-1691  
OUT KEY BISCAYNE BANK IN  
\$1,000.00  
200.00  
232.82  
\$4,562.38 (\$6,000.00)

MISC. ADMIN. EXPENSES  
RELATE TO  
PRESIDENT NIXON  
\$2,783.87

HERBERT W. KALMBACH  
TRUSTEE FOR CLIENTS  
ACCT 002.691  
SECURITY PACIFIC NATIONAL  
NEWPORT BEACH, CALIF  
TONY ULASEWICZ ACCOUNT  
\$1,000.00

HERBERT W. KALMBACH  
TRUSTEE ACCOUNT  
#081-4068  
SECURITY PACIFIC NAT'L BK  
NEWPORT BEACH, CALIF  
OUT \$320.00 IN \$200.00

JACK CAULFIELD  
\$320.00

FIRST NATIONAL BANK  
OF MIAMI  
OUT CASHIER'S CHECK IN  
\$5,000.00  
\$5,000.00

JANE HARRISON  
J. S. BACHE & CO. IN  
STOCK \$3,454.49  
SCHNEERS-MIAMI-  
DIAMONDS 2,150.00

HENRY WINSTON  
MRS. NIXON IN  
PLATINUM EARRINGS \$5,000.00  
\$90.00  
\$560.00  
TOTAL \$5,650.00

OUT  
\$ 90.00 ROSEMARY WOODS  
560.00 CASHIER'S CHECK  
FROM RIGGS  
NATIONAL BANK

PRESIDENT NIXON'S  
KEY BISCAYNE PROPERTY  
POOL OIL FOR REMODELING  
\$10,100.00 HEATER \$138.50 \$ 6,508.11  
1,500.00 141.87 1,654.00  
1,727.26 75.88 1,681.00  
2,100.00 11,978.84  
1,277.64  
210.78  
1,519.50  
OTHER  
PUTTING GREEN - \$ 243.57  
BILLIARD TABLE - 1,138.80  
FIREPLACE - 3,586.00  
ARCHITECTURAL  
MODEL FOR HOME - 395.65  
SUMMARY  
CONSTRUCTION & REMODELING - \$45,621.15  
OIL HEATER MAINTENANCE - 356.25  
TOTAL \$45,977.40

December 20, 1973, Rebozo testified that he received the second \$50,000 contribution at his home in August 1970.<sup>64</sup>

### C. INITIATOR OF FIRST DELIVERY

On March 20, 1974, Mr. Rebozo testified before the Select Committee that Danner had offered the \$50,000 contribution to Rebozo on numerous occasions after the 1968 election.<sup>65</sup> However, on May 10, 1973, Mr. Rebozo told IRS agents that after the 1968 election, Rebozo could not remember whether he approached Danner or Danner approached him about making the contribution.<sup>66</sup>

Mr. Danner testified on Tuesday, December 18, 1973, that after the 1968 election in early 1969, Rebozo "needled" Danner about the fact that the Hughes people had not made a substantial contribution to the 1968 campaign. Danner testified that in 1969 Rebozo asked Danner whether Hughes would contribute funds to begin taking polls on candidates for the 1970 congressional elections.<sup>67</sup> Danner also testified that this occurred after Rebozo had refused Danner's offer in early 1969 to deliver the \$50,000 contribution that had been promised for the 1968 campaign.<sup>68</sup>

### D. PURPOSE OF THE MONEY

On March 20, 1974, Mr. Rebozo testified that the two contributions he received from Richard Danner were to be used for the 1972 Presidential campaigns, since he "did not accept contributions from anybody for anything else."<sup>69</sup> However, on June 18, 1973, Rebozo apparently told Kenneth Whittaker that the money Rebozo was taking out of the safe deposit box in the Key Biscayne Bank was from Howard Hughes and was to be applied to the Republican congressional elections in 1970.<sup>70</sup> In addition, Rebozo apparently told Whitaker that a short time after receiving the first contribution, he received another \$50,000 from Richard Danner to be used for the same purpose.<sup>71</sup>

Richard Danner has insisted throughout his staff interviews and his sworn testimony before the Select Committee, that the funds he contributed on behalf of Howard Hughes were requested by Rebozo to be used for the 1970 congressional campaigns or for polls for those elections, and that this was the purpose of the contributions.<sup>72</sup> Robert Maheu has testified that the purpose of the first \$50,000 contribution was to fulfill the pledge made in the 1968 campaign, and that the second contribution was made to insure that the Hughes people had an entree with the Nixon administration.<sup>73</sup>

Finally, Richard Danner testified that in March or April 1972, he received a telephone call from Bebe Rebozo, asking him if Howard Hughes was going to make a contribution to the 1972 campaign.<sup>74</sup>

<sup>64</sup> See deposition of Charles G. Rebozo, Dec. 20, 1973, in *Common Cause v. FCRP*, p. 28.

<sup>65</sup> 21 *Hearings* 9954.

<sup>66</sup> See IRS interview, May 10, 1973, p. 2.

<sup>67</sup> 20 *Hearings* 9515.

<sup>68</sup> *Ibid.*

<sup>69</sup> 21 *Hearings* 9960.

<sup>70</sup> See letter from FBI Director Clarence Kelley to Commissioner Alexander of the IRS, IRS files.

<sup>71</sup> *Ibid.*

<sup>72</sup> Danner interview, Aug. 30, 1973; 20 *Hearings* 9515.

<sup>73</sup> Robert Maheu interviews, Sept. 15, 1973, and Jan. 20, 1974.

<sup>74</sup> 20 *Hearings* 9540.



## E. INDIVIDUALS WHO HAD KNOWLEDGE OF THE RECEIPT OF THE HUGHES CONTRIBUTION

On March 20, 1974, Bebe Rebozo testified under oath to the Select Committee that he had informed Rose Mary Woods of the Hughes contribution shortly after he received it.<sup>75</sup>

On May 10, 1973, Rebozo told Internal Revenue Service special agents who were interviewing him that he and the two agents were the only individuals who "knew about the money."<sup>76</sup> Furthermore, on July 10, 1973, Rebozo told Internal Revenue special agent John Bartlett and Revenue agent Bert Webb that he did not notify anyone of the receipt of the money.<sup>77</sup>

It was not until his October 8, 1973, interview with the Senate Select Committee that Rebozo testified that he told Rose Mary Woods that he had a contribution from Howard Hughes totaling \$100,000 in his safe deposit box which he shared with Thomas Wakefield.<sup>78</sup> In that interview, Rebozo stated that he told Miss Woods about the contribution at about the time he became apprehensive about retaining it.<sup>79</sup>

In addition, Rebozo stated in that interview that he thought that he told Herb Kalmbach at some point when discussing 1972 campaign contributions that he received a 1968 contribution from Howard Hughes.<sup>80</sup> Finally, in that same interview, Rebozo recalled that he also informed President Nixon about the campaign contribution from Howard Hughes in one of his visits at Key Biscayne after the 1972 election.<sup>81</sup>

Then in Rebozo's interview with the Senate Select Committee on October 17, 1973, Rebozo stated that he did not discuss the contribution with any other individuals besides Rose Mary Woods between the time he received it and the time when he decided to return the contribution.<sup>82</sup> Rebozo added that he talked with several other individuals about the contribution after he had decided to return the money.<sup>83</sup> Rebozo also testified that he talked to Herbert Kalmbach about the Hughes contribution on April 30, 1973.<sup>84</sup>

Then on March 20, 1974, Rebozo swore under oath before the Senate Select Committee that President Nixon had counseled Rebozo to give the money back in early 1973.<sup>85</sup>

Rebozo also testified on March 20, 1974, that he discussed what he should do with the money with William Griffin, a New York lawyer, and the attorney for Robert Abplanalp.<sup>86</sup> Furthermore, Rebozo testified on March 20, 1974, that he had several discussions of the Hughes contribution with Rose Mary Woods, and estimated that he discussed it with her on three or four separate occasions.<sup>87</sup> Rebozo also stated in an interview on October 17, 1973, that he told Miss Woods that the

<sup>75</sup> 21 *Hearings* 10000.

<sup>76</sup> See Rebozo interview with IRS, May 10, 1973, p. 4.

<sup>77</sup> See July 10, 1973, interview by IRS.

<sup>78</sup> Rebozo interview, Oct. 8, 1973, p. 6.

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.*

<sup>82</sup> Rebozo interview transcript, Oct. 17, 1973, p. 17.

<sup>83</sup> Rebozo interview transcript, Oct. 17, 1973, p. 31, (third section).

<sup>84</sup> *Ibid.*

<sup>85</sup> 21 *Hearings* 9994.

<sup>86</sup> *Ibid.*

<sup>87</sup> 21 *Hearings* 10003.

Hughes contribution was for the 1972 campaign and that he discussed the problems of the Hughes organization with her.<sup>88</sup>

Miss Woods testified on March 22, 1974, "I don't think we had several discussions, there was nothing to discuss so far as I know."<sup>89</sup> In addition, she testified that Rebozo never offered any details with regard to the contribution<sup>90</sup> and that she did not know for which campaign the contribution was intended.<sup>91</sup>

Mr Rebozo also testified that he discussed the \$100,000 with Thomas H. Wakefield after he decided to return the money.<sup>92</sup> In addition, Rebozo testified he told the President about having the Hughes money sometime prior to March or April 1973, when the President visited Key Biscayne, Fla.<sup>93</sup>

On October 17, 1973, Rebozo told the Select Committee staff that after he had decided to return the money, Rebozo mentioned the Hughes contribution to John Ehrlichman and H. R. Haldeman.<sup>94</sup>

Ehrlichman, however, said in a January interview that he did not know anything at all about the \$100,000 contribution until he read about it in the newspaper in the fall of 1973.<sup>95</sup>

Ehrlichman recalled that he did discuss the general subject of Hughes contributions with Rebozo. Although he could not recall the date, he recalled that Rebozo told him that the Hughes people had misled him into thinking that they would make a very large contribution, but had ended up making a contribution very much under \$10,000.<sup>96</sup>

Ehrlichman said that Rebozo had indicated to him that Rebozo had received only a "de minimus" contribution from the Hughes people.<sup>97</sup> Then on March 21, 1974, Rebozo testified that neither Haldeman nor Ehrlichman knew anything about the \$100,000 in 1972 or 1973. Rebozo testified that, "they knew nothing about it, to my knowledge."<sup>98</sup>

#### F. CONDITIONS UNDER WHICH THE MONEY WAS STORED

On March 20, 1974, Rebozo testified that after receiving the cash, he marked H. H. in the corner of the envelope containing the cash, wrote a letter to Thomas H. Wakefield that was placed in the director's safe deposit box with instructions on what to do with the money should anything happen to Mr. Rebozo, marked similar instructions on the manila envelope containing the money, and placed the envelope in his safe deposit box No. 224 at the Key Biscayne Bank.<sup>99</sup> However, Rebozo also testified that he destroyed the original envelope in which the Hughes money was contained "some time after the Hughes problem started and the campaign got underway."<sup>1</sup> Rebozo also testified that he destroyed the letters to Wakefield in the director's box at a

<sup>88</sup> Rebozo interview transcript, Oct. 17, 1973, pp. 48-49.

<sup>89</sup> 22 *Hearings* 10205.

<sup>90</sup> 22 *Hearings* 10206.

<sup>91</sup> 22 *Hearings* 10201.

<sup>92</sup> 21 *Hearings* 10064.

<sup>93</sup> 21 *Hearings* 10090.

<sup>94</sup> Interview of Charles G. Rebozo, Oct. 17, 1973, p. 2.

<sup>95</sup> See Ehrlichman interview, Jan. 10, 1974, p. 20.

<sup>96</sup> *Id.* at p. 24-25.

<sup>97</sup> *Ibid.*

<sup>98</sup> 21 *Hearings* 10066.

<sup>99</sup> 21 *Hearings* 9967-69.

<sup>1</sup> 21 *Hearings* 9971.

later time.<sup>2</sup> Rebozo further testified that some time after he placed the Hughes contribution in his safe deposit box, he took the bank wrappers off of the money and placed rubberbands around the packets.<sup>3</sup>

However, on March 21, 1974, Herbert Kalmbach testified that he met Rebozo on January 8, 1974, and that Rebozo then told him:

Undoubtedly, Herb, I have not told you that after you and I talked last spring regarding the Hughes money, I found that I had not in fact disbursed any of the Hughes cash to the several people I named. When I went into the safe deposit box, I found that the wrappers around that cash had not been disturbed, and so it was clear that no part of this money had been used \* \* \*<sup>4</sup>

In addition, Ken Whitaker stated in an interview on November 20, 1973, that when he observed the counting of the money on June 18, 1973, "some of the packets were held together by rubberbands, while others were in bank wrappers."<sup>5</sup> Whitaker did not recall any identification on the wrappers.

Mr. Rebozo also testified that Thomas H. Wakefield had a duplicate key to safe deposit box No. 224, where the money was kept during the entire time that the money was stored in a safe deposit box.<sup>6</sup> Rebozo testified that some time during the period after he received the Hughes contribution, he lost all of his keys to his safe deposit boxes and that the locks were changed after he lost his keys.<sup>7</sup> Rebozo testified that he gained access to box No. 224 on this occasion by requesting the second key from Mr. Wakefield, so that Rebozo could get into the box. Rebozo also testified that he gave Wakefield the replacement key for the new lock after the new lock was installed.<sup>8</sup>

However, Thomas H. Wakefield, under oath before the Senate Select Committee on June 10, 1974, testified that Rebozo never came to him to request his copy of the key of the safe deposit box No. 224, and that he was never given any replacement key to get into the box after the locks were allegedly changed.<sup>9</sup> Wakefield stated in an interview that sometime in 1968 or 1969 Rebozo gave him a key to the safe deposit box and told him that in case of Rebozo's death, Wakefield should open the box and follow the instructions.<sup>10</sup>

Rebozo also testified that it was not the custom of the bank to ask Rebozo to sign the access card each time he went into his safe deposit boxes. Therefore, the same deposit box records produced by Rebozo did not represent each time that he went into the box.<sup>11</sup>

#### G. OTHER CONTRIBUTIONS

On March 21, 1974, Rebozo testified that A. D. Davis made a \$50,000 cash contribution to Rebozo on April 4 or 5, 1972. Rebozo further testified that he called the Finance Committee To Re-Elect the President

<sup>2</sup> 21 *Hearings* 9972.

<sup>3</sup> 21 *Hearings* 9985.

<sup>4</sup> 21 *Hearings* 10191.

<sup>5</sup> Whitaker interview, Nov. 20, 1973, p. 3.

<sup>6</sup> 21 *Hearings* 10008.

<sup>7</sup> 21 *Hearings* 10012.

<sup>8</sup> 21 *Hearings* 10013.

<sup>9</sup> 24 *Hearings* 11289.

<sup>10</sup> Wakefield interview, Oct. 18, 1973, p. 2.

<sup>11</sup> 21 *Hearings* 10016.

after receiving the contribution and that the committee sent Fred LaRue down to pick up the money.<sup>12</sup>

However, Fred LaRue testified that he did not discuss any contribution with Bebe Rebozo until October 1972, and that on that occasion, LaRue called Rebozo to request contributions for the Nunn campaign in Kentucky at the request of John Mitchell.<sup>13</sup> In addition, LaRue's plane ticket showing the trip during which he picked up the money from Rebozo is dated October 12, 1972.<sup>14</sup>

However, on December 20, 1972, Rebozo testified in a civil deposition that he received campaign funds for President Nixon's reelection campaign from January 1, 1971 through April 6, 1972, "which have already been listed."<sup>15</sup> It is interesting to note, however, that the A. D. Davis contribution was never noted on any list of contributors to the 1972 campaign, nor was any contribution from Davis acknowledged by Maurice Stans, the chairman of the FCRP, until October 13, 1972. Rebozo also testified that he set up a separate bank account for all contributions he received for the 1972 campaign.<sup>16</sup> However, Rebozo testified before the Select Committee that he did not place the Hughes \$100,000 contribution nor the A. D. Davis \$50,000 in the special account that he had set up. On July 10, 1973, Rebozo told IRS special agent Jack Bartlett that "In 1972, Rebozo put all contributions received by him in the bank account (special bank account he set up for contributions)."<sup>17</sup> In addition, Mr. Rebozo also testified on December 20, 1973, that aside from the Kislak contribution and the Hughes contribution, that he received other contributions, but those were "others that are reported, but they are a matter of record."<sup>18</sup> Rebozo added, "I believe, however, they are subsequent to the April 7 date."<sup>19</sup>

Then, Rebozo was asked:

Q. There should be no pre-April 7, 1972 contributions that are not in the material you submitted. Is that correct?

A. That's correct, to the best of my recollection. If you are getting at something specific you want to ask me about, go ahead.<sup>20</sup>

On March 20, 1974, Rebozo was asked if Herbert Kalmbach asked him to see any specific individual with regard to contributions for the 1972 campaign. Rebozo replied, "Yes. I think that later on, I don't know whether it was 1969 or 1970—it might have been 1970—he asked me to make an appointment with him with a couple of people that I knew. One was Paul Getty and another was Raymond Guest."<sup>21</sup> Rebozo also testified that the purpose of contacting these individuals was for the purpose of obtaining contributions for the 1972 election. The following exchange occurred:

Mr. LENZNER. Had you been asked by anybody else to speak to Mr. Getty yourself?

<sup>12</sup> 21 *Hearings* 10117.

<sup>13</sup> 23 *Hearings* 11152.

<sup>14</sup> 26 *Hearings*, exhibit 47.

<sup>15</sup> Civil deposition of Charles G. Rebozo, Dec. 20, 1973, *Common Cause et al. the FCRP*, p. 4.

<sup>16</sup> *Id.* at pp. 8-9.

<sup>17</sup> See IRS interview, July 10, 1973.

<sup>18</sup> Civil deposition, *op. cit.* at note 15, pp. 54-55.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Id.* at p. 56.

<sup>21</sup> 21 *Hearings* 9974.

Mr. REBOZO. No.

Mr. LENZNER. You had not been requested by anybody else to seek to obtain money from Mr. Getty?

Mr. REBOZO. No.<sup>22</sup>

However, in a memorandum dated on February 17, 1969, from H. R. Haldeman to John Ehrlichman, Mr. Haldeman stated that Bebe Rebozo has been asked by the President to contact J. P. regarding major contributions.<sup>23</sup>

Herbert Kalmbach testified on March 21, 1974, that Rebozo had asked Kalmbach to solicit from Mr. Getty funds for the 1970 senatorial campaign program.<sup>24</sup> Kalmbach also testified that Rebozo "set it up for him to see Mr. Getty in Europe."<sup>25</sup>

On November 9, 1973, H. R. Haldeman told the staff in an interview that he recalled that Rebozo was responsible for raising funds from former Senator George Smathers and his friends "and may have been the J. P. Getty contact."<sup>26</sup>

In addition, Rebozo testified that he sent leftover 1968 campaign funds from the Florida Nixon for President Committee to Herb Kalmbach pursuant to Kalmbach's request. Rebozo testified that he did not know what Kalmbach was going to do with the money:

\* \* \* I wasn't concerned with the purpose. He was just a little late in asking me and I thought everything was paid \* \* \*<sup>27</sup>

Kalmbach testified that Rebozo had a special account in Key Biscayne that had leftover 1968 campaign funds in it. Kalmbach said he asked Rebozo to send these funds to him in order to pay Caulfield and Ulasewicz. Before requesting this money from Rebozo, however, Kalmbach said he first cleared this procedure with John Ehrlichman. Kalmbach recalls that Ehrlichman approved that the funds Rebozo held from 1968, should be used to pay Caulfield and Ulasewicz. Kalmbach testified that he discussed the need for these funds with Rebozo and that Rebozo specifically knew they were for Caulfield and Ulasewicz.<sup>28</sup>

#### H. RETURN OF THE MONEY

Mr. Rebozo testified on March 20, 1974, that he first decided to return the Hughes contribution in March of 1973.<sup>29</sup> Rebozo also testified that he began trying to contact Danner in order to convince Danner to take the money back "around March or April" 1973.<sup>30</sup> However, later on at the same executive session, Rebozo testified that he in fact made no efforts to contact Danner to have him take the money back until after he met with the Internal Revenue Service.<sup>31</sup>

Mr. Rebozo's first interview with the Internal Revenue Service was not until May 10, 1973, thereby placing his efforts to have Danner take the money back after that date. Rebozo also testified that after he talked to the IRS, William Griffin was the first lawyer to whom

<sup>22</sup> *Ibid.*

<sup>23</sup> 26 *Hearings*, exhibit 15.

<sup>24</sup> 21 *Hearings* 10181-82.

<sup>25</sup> *Ibid.*

<sup>26</sup> Haldeman interview, Nov. 9, 1973, p. 2.

<sup>27</sup> 21 *Hearings* 9947.

<sup>28</sup> 23 *Hearings* 10861.

<sup>29</sup> 21 *Hearings* 9989.

<sup>30</sup> 21 *Hearings* 10065.

<sup>31</sup> 21 *Hearings* 10091.

he spoke about the money.<sup>32</sup> Rebozo also said that the time at which he first spoke to the lawyers that he mentioned in his testimony was after he met with the Internal Revenue Service.<sup>33</sup>

In his first interview with the Internal Revenue Service on May 10, 1973, Rebozo asked the agents interviewing him "what he should do with the money—whether he should give it to us [the agents]." <sup>34</sup> In that same interview, Rebozo also told the agents that, "he had considered calling Danner several times and offering to return the money, but that he had never done so because he was afraid that he would create some additional publicity." <sup>35</sup>

On October 17, 1973, Rebozo told the Select Committee staff that he had decided to return the Hughes contribution prior to his discussion on April 30, 1973, with Herbert Kalmbach. In addition, on October 17, 1973, Rebozo stated, "I know I had a little trouble trying to get it back, and exactly when that was I don't know, but it probably was in 1973, it's very likely that it was. And once that decision was made, I'm sure I mentioned it to a number of people, but up until then, even Wakefield himself who was on the box didn't know, well not up until the time we took the money out he didn't know what he was on that box for." <sup>36</sup> Rebozo also testified on that occasion that it was March or April 1973 when he first told Danner that he wanted to return the money.

In addition, Rebozo testified about his meeting with Herbert Kalmbach as follows:

LENZNER. Yes; how about Mr. Kalmbach, did you ever discuss this with him?

REBOZO. I probably told him about it. He was involved in \* \* \* saw him several times at the White House \* \* \* and in California.

LENZNER. And do you remember how it was, were you seeking his advice or counsel?

REBOZO. I don't think so. I think it was just a general discussion. You see, Kalmbach and I have business discussions, naturally on the San Clemente interest. He and I worked on the Yorba Linda House.<sup>37</sup>

Rebozo later on testified further about his meeting with Kalmbach:

LENZNER. Do you recall if the two \$50,000 contributions came up?

REBOZO. Yeah; I believe I told him about it \* \* \* that may be.

LENZNER. Do you recall specifically what you told him about it? And why you told him at that time?

REBOZO. No other than, I mean, he had been involved in fundraising and it wasn't going to be any secret. I guess I just told the key people that should know about it.

LENZNER. Did you ask whether you should send the money back, did that question arise?

<sup>32</sup> 21 *Hearings* 10092.

<sup>33</sup> *Ibid.*

<sup>34</sup> See Internal Revenue Service interview, May 10, 1973, p. 2.

<sup>35</sup> *Id.* at p. 4.

<sup>36</sup> Rebozo interview transcript, Oct. 17, 1973, p. 18.

<sup>37</sup> *Id.* at p. 19.

REBOZO. Well, that was April 30, 1973, and I think the decision was already made then. If I did ask, it was just for his opinion.

LENZNER. Since you had already decided, did you communicate—tell him that you had already decided to send the money back?

REBOZO. I don't know. No. Because as I recall the part about the Hughes money—it was just an irrelevant part of the conversation.

LENZNER. The purpose of the meeting was not to discuss that.

REBOZO. No.

LENZNER. Did he ask you specifically about the Hughes money? Kalmbach?

REBOZO. He didn't ask me. I told him and I think that's the first time that I told him. I'm not sure, it may have been earlier. I don't know. Just like there may have been some others I told at that time. It's a bit of a dilemma. I hated to see it go back if it could be used. But I had clung to vain hope longer than perhaps I should have.

LENZNER. Did you have other discussions with Kalmbach?

REBOZO. I don't think so.

LENZNER. Do you remember any reaction that Kalmbach had at that time when you told him about the funds?

REBOZO. No. I can't say that I do.

LENZNER. Was he concerned that there may have been a problem your having received these funds—any concern about that?

REBOZO. I don't know. I think he had enough. I think he had enough concern of his own to be concerned about the fact that I had \* \* \* I don't recall.

LENZNER. Did he discuss any of his problems he was facing?

REBOZO. No; I was reading about his.

LENZNER. Did he seem surprised to learn of these funds or did he appear to know about them?

REBOZO. If he was I don't recall his showing it. I think in the campaign as I told you last time, that I was asked, if Hughes had made a contribution in 1968. I said he had. But nobody questioned that a check turned in. In 1972 I handled this as best I could.

LENZNER. Who asked you about the Hughes thing \* \* \*

REBOZO. I think that Herb did, can't be sure, but I think he had.<sup>38</sup>

Richard Danner testified on Tuesday, December 18, 1973, that the first occasion on which he was informed that the money had not been used and that Rebozo wanted to return the money, was on May 18, 1973, at the Madison Hotel in Washington, D.C., in a discussion that Danner had with Rebozo.<sup>39</sup> Mr. Danner also responded to further questioning about the return of the money as follows:

<sup>38</sup> Rebozo interview transcript, Oct. 17, 1973, pp. 20–21.

<sup>39</sup> 20 *Hearings* 9546.

LENZNER. Did Mr. Rebozo indicate whether he had discussed the return of the money with anybody else?

DANNER. No, he didn't mention that. And I asked him if he had consulted with an attorney or tax man or anyone of that sort, and he said no, he hadn't and I suggested that he had better do that.<sup>40</sup>

On March 28, 1974, William Griffin testified under oath before the Senate Select Committee that he met with Bebe Rebozo in either late April or May 3, 1973, and that Mr. Rebozo explained to him that he had \$100,000 in a safe-deposit box at the Key Biscayne Bank and that the money was the same money he had been given in 1969 and 1970.<sup>41</sup> Griffin could not recall whether Mr. Rebozo said that he was going to meet with the Internal Revenue agents or he had just met with them.<sup>42</sup> Griffin placed the date of his first meeting with Rebozo in late April 1973, but his first airplane ticket showing a trip down to Key Biscayne from New York was dated May 3, 1973.<sup>43</sup> However, both of those dates are prior to May 10, 1973, when Rebozo first met Internal Revenue agents and told them that they were the only ones that knew that the money was still in the safe-deposit box in the Key Biscayne Bank.

On March 21, 1974, Herbert Kalmbach testified that on the evening of April 29, 1973, he received a call from Bebe Rebozo who requested a meeting with him the following morning.<sup>44</sup> Kalmbach said that he met with Rebozo on the following morning, April 30, 1973, at about 8 in the morning and after they discussed such matters as refinancing of San Clemente and the President's taxes, Rebozo asked Kalmbach if he could go on "attorney-client basis" "in discussing a personal problem." Kalmbach testified that Rebozo said "the President had asked him to speak to me about this problem and not Maurice Stans."<sup>45</sup> Kalmbach stated that Mr. Rebozo said the IRS had scheduled a meeting with him on the subject of a \$100,000 contribution from Howard Hughes which Mr. Rebozo received in 1969 and 1970.<sup>46</sup> Kalmbach then testified that Rebozo said that "he had disbursed part of the funds to Rose Woods, to Don Nixon, to Ed Nixon and to unnamed others during the intervening years \* \* \*"<sup>47</sup> Kalmbach further testified, "In response to my questions, he reiterated that the money had been given to him as a contribution by Hughes, and that the expenditures he had made to several individuals including Rose and the President's two brothers had come from the Hughes cash."<sup>48</sup>

Kalmbach then testified that he advised Rebozo to get the best tax lawyer he could and to lay out the facts exactly to the Internal Revenue Service. Kalmbach said that Rebozo replied to his advice, expressing grave reservations about following it for the stated reason that, "This touches the President and the President's family and I can't do anything to add to his problems at this time, Herb."

<sup>40</sup> 20 *Hearings* 9547.

<sup>41</sup> 22 *Hearings* 10429.

<sup>42</sup> 22 *Hearings* 10430.

<sup>43</sup> 22 *Hearings* 10428.

<sup>44</sup> 21 *Hearings* 10188.

<sup>45</sup> 21 *Hearings* 10189.

<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

<sup>48</sup> *Ibid.*



Kalmbach testified that he checked with another attorney, Stanley Ebner, in the White House, who agreed completely with his advice when presented in a hypothetical context.<sup>49</sup>

Kalmbach stated that he met Mr. Rebozo again the following morning, May 1, 1973, at around 8:30 a.m. Kalmbach testified that he began to recount his visit with Stan Ebner, but before he had finished, Rebozo "cut short further discussion with a somewhat baffling comment that he saw no problem but he thanked me for my thoughts."<sup>50</sup>

Kalmbach also testified that he had a third meeting with Bebe Rebozo on Tuesday, January 8, 1974, at about 8:30 in the morning at the San Clemente Western White House.<sup>51</sup> Kalmbach recalled that at one point toward the end of his meeting on January 8, Rebozo told him words to the effect that:

Undoubtedly, Herb, I have not told you that after you and I talked last spring regarding the Hughes money, I found that I had not in fact disbursed any of the Hughes cash to the several people I named. When I went to the safe-deposit box, I found that the wrappers around that cash had not been disturbed, so it was clear that no part of this money had been used during the several years it was in my box.<sup>52</sup>

In an affidavit sworn on May 14, 1974, Mr. Jim O'Connor, Kalmbach's attorney, stated that following Kalmbach's meeting with Rebozo on or about April 30:

Mr. Kalmbach discussed with affiant [Jim O'Connor] the fact that after discussing the San Clemente matter and the handling of the tax affairs of the President, and after stating that the attorney-client relationship did indeed exist, Mr. Rebozo advised Mr. Kalmbach that he had given some of the \$100,000 in question which had been given to him by Danner, to Rose Mary Woods and to the Nixon brothers, and Mr. Rebozo asked Mr. Kalmbach what he should do.<sup>53</sup>

In addition, Margaret C. Blakely, Jim O'Connor's secretary, filed an affidavit on May 15, 1974, which stated that on or about the middle of October 1973, she was asked by Mr. O'Connor to call Mr. Rebozo to inform him that Mr. Kalmbach had been questioned by the Special Prosecutor's office and by Terry Lenzner on October 11 and 12 concerning a meeting on April 30, 1973 with Mr. Rebozo:

\* \* \* and Mr. Kalmbach acknowledged the meeting took place at or about that time; Mr. Kalmbach further advised both investigating parties that the prime purpose of the meeting was to review certain matters involving the President's personal affairs, including the sale of the Whittier property and the refinancing of the San Clemente property, among other things; that Mr. Kalmbach was disturbed about reports that campaign funds were used in the acquisition of the San Clemente property, etc.<sup>54</sup>

<sup>49</sup> *Ibid.*

<sup>50</sup> 21 *Hearings* 10190.

<sup>51</sup> 21 *Hearings* 10191.

<sup>52</sup> *Ibid.*

<sup>53</sup> See O'Connor affidavit, 26 *Hearings*, exhibit 49.

<sup>54</sup> See Blakely affidavit, 26 *Hearings*, exhibit 50.

Blakely also swore that on or about January 25, 1974, she was again asked to contact Rebozo, and when Mr. Rebozo returned her call, she read to him a memorandum as follows:

If Mr. Kalmbach is pressed as to any details of a conversation between himself and Mr. Rebozo on April 30 and/or May 1, he, of course, would have to tell the truth; that in the unlikely event he is pressed on this matter he will of course state that these discussions were pursuant to the attorney-client relationship and therefore subject to the attorney-client privilege.<sup>55</sup>

On March 20, 1974, the following exchange occurred during Mr. Rebozo's testimony:

MR. LENZNER. Did you ever make the statement to anybody that you had used the money or had somebody else use it on behalf of other individuals?

MR. REBOZO. No, sir. I don't think anybody else did, either.<sup>56</sup>

Rebozo also testified on March 21, 1974, that he ran into Herb Kalmbach at the White House on April 30, 1973, and asked for his judgment on whether or not Rebozo should return the money.<sup>57</sup> Then the following exchange occurred on March 21, 1974:

MR. LENZNER. Did you explain to him again that you had received the funds and that you had kept them and why you kept them?

MR. REBOZO. I think I passed over that.

MR. LENZNER. And I take it you did tell him you kept it because you were asking for his judgment on whether you should return them or not?

MR. REBOZO. That's right.

MR. LENZNER. Did you ask him to do anything other than giving you his judgment at that time?

MR. REBOZO. No.

MR. LENZNER. Did you ever discuss with him again the \$100,000 contribution from Hughes?

MR. REBOZO. I don't think so. I've seen very little of him. That may be the last I saw him.

There was further discussion on March 21, about Rebozo's meetings with Kalmbach. The exchange follows:

MR. LENZNER. We talked, I think, to Mr. Kalmbach some time in October or November of 1973. Did he ever advise you of those discussions?

MR. REBOZO. No, I don't think so. I don't know I don't think I've seen Kalmbach—yes, I did see him once in California since that meeting we just referred to [April 30, 1973]. That simply had to do with the grounds, the Presidential grounds out there, the certain repairs that need to be made and so on.

MR. LENZNER. There was no discussion on that occasion about the Hughes contribution of \$100,000?

MR. REBOZO. No.

<sup>55</sup> *Id.* at p. 2.

<sup>56</sup> 21 *Hearings* 9998.

<sup>57</sup> 21 *Hearings* 10112.

Mr. LENZNER. I'm sorry, sir?

Mr. REBOZO. No.

Mr. LENZNER. You told him, then, on April 30, that, basically that you had retained the same funds that had been given to you previously. Did you tell him when you had received these funds—Mr. Kalmbach, on April 30, Mr. Rebozo?

Mr. REBOZO. No. Actually at that time I wasn't even sure when I'd received it. That was established later.

Mr. LENZNER. And you did tell him that they were the same funds and you wanted to know what to do about it?

Mr. REBOZO. Yes.<sup>58</sup>

Later, on March 21, Rebozo was asked if he ever discussed with Haig, Garment, Ehrlichman, Griffin, and Kalmbach the issue of whether the funds had been used or not. Mr. Rebozo replied, "That was not an issue. They had not been used. I still have the funds." Lenzner added, "So the answer is, 'no,' you had never discussed that with any of those individuals?" Mr. Rebozo replied, "No."

Rebozo also testified on March 21, 1974, that he had no financial or business transactions with Edward Nixon, the President's brother.<sup>59</sup> Rebozo denied that he had given Edward Nixon any gifts in excess of \$1,000.<sup>60</sup> Rebozo also denied that he ever had any financial or business transactions with Rose Mary Woods except for the Fisher's Island transaction.<sup>61</sup> Rebozo also denied that he had ever given money in excess of \$1,000 to Rose Mary Woods.<sup>62</sup> Rebozo denied ever furnishing any money to F. Donald Nixon.<sup>63</sup>

Rebozo also testified that he had not given any gifts of cash or stock or any other negotiable commodity of value in excess of \$1,000 to President Nixon.<sup>64</sup>

## I. CAMP DAVID MEETING

On March 21, 1973, Rebozo testified that he recalled meeting Richard Danner in Washington in May 1973, but he did not recall asking Danner to come to Washington for the meeting.<sup>65</sup> Rebozo also testified that after talking to Danner on May 18th or 19th, Rebozo decided to have President Nixon talk personally to Danner about the "mood of the people" he was seeing in Las Vegas, and so he called an aide to have him bring Danner up to Camp David in a courier car.<sup>66</sup> Rebozo also testified that he asked the President to come over to Rebozo's cottage to have Danner relate to the President the mood of the people of the West.<sup>67</sup> Rebozo testified that he did not recall that the President was present at the meeting for more than 10 minutes.<sup>68</sup> Rebozo could also not recall the kind of day it was on Danner's visit, nor did he recall taking a walk with Danner and President Nixon on the Camp David grounds.<sup>69</sup>

<sup>58</sup> 21 *Hearings* 10112-13.

<sup>59</sup> 21 *Hearings* 10134.

<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*

<sup>63</sup> 21 *Hearings* 10120.

<sup>64</sup> 21 *Hearings* 10133.

<sup>65</sup> 21 *Hearings* 10093-94.

<sup>66</sup> 21 *Hearings* 10094.

<sup>67</sup> 21 *Hearings* 10095.

<sup>68</sup> 21 *Hearings* 10095 and 10098.

<sup>69</sup> 21 *Hearings* 10099.

Richard Danner testified on December 18, 1973, that Rebozo had been "wanting to see me" prior to Danner's coming into Washington on May 18, 1973. Danner also testified that Rebozo told him that President Nixon wanted to talk to Danner, and that he was picked up by a car and driven to Camp David on May 20, 1973.<sup>70</sup> Danner testified that he met with Rebozo and the President beginning around 12 noon, and that:

\* \* \* we talked in the room for perhaps an hour. And then we took a walk. I remember it, because it was misting rain, and I didn't have a raincoat, but we took quite a walk around the compound, and he was showing me various places and what was being done. And this probably lasted until 2 o'clock, something like that.<sup>71</sup>

Danner reconfirmed his testimony of December 18, 1973, in another executive session on June 11, 1974, in which he detailed the walk that he and President Nixon and Rebozo took around the compound.<sup>72</sup> Danner also testified that his meeting with President Nixon was certainly more than a 5-minute meeting.<sup>73</sup> Finally, weather reports indicate that on May 20, 1973, a light rain fell on Camp David, Md.<sup>74</sup>

### J. IRS INVESTIGATION

Mr. Rebozo testified in the morning of March 21 that he first learned about the IRS investigation into the Hughes matter when "the agent called \* \* \* from Las Vegas and wanted to come and see me, and we set up an appointment."<sup>75</sup> Rebozo denied that he ever talked with Ehrlichman about the \$100,000 contribution or that Ehrlichman ever called to alert him that the IRS would soon call and request an interview about the Hughes matter.<sup>76</sup>

However, in the afternoon session on March 21, Rebozo testified:

\* \* \* I think that perhaps I ought to correct a misunderstanding I may have made to Senator Weicker earlier, because I was asked about Ehrlichman and I do recall that Ehrlichman did mention the IRS to me. I didn't recall any specific conversation, but now I do remember that he [Ehrlichman] had said something about the IRS was going to check this out \* \* \*<sup>77</sup>

Mr. Ehrlichman testified on February 8, 1974, that he called Mr. Rebozo at the request of Roger Barth of the IRS to notify Rebozo that the IRS wanted to interview him about "whether or not Rebozo had received funds from the Hughes organization \* \* \*"<sup>78</sup>

Finally, Roger Barth, testified that he called Rebozo to notify him of the IRS request for an interview.<sup>79</sup> Barth testified that he acted at Ehrlichman's request.<sup>80</sup>

<sup>70</sup> 20 *Hearings* 9548.

<sup>71</sup> 20 *Hearings* 9549.

<sup>72</sup> 24 *Hearings* 11472.

<sup>73</sup> *Ibid.*

<sup>74</sup> NOAA weather report for Catoclin Mountain Park.

<sup>75</sup> 21 *Hearings* 10067.

<sup>76</sup> 21 *Hearings* 10068.

<sup>77</sup> 21 *Hearings* 10090. It should be noted that Mr. Rebozo and Mr. Ehrlichman presently retain the same counsel, Mr. William Snow Frates of Miami, Fla.

<sup>78</sup> 21 *Hearings* 9680.

<sup>79</sup> 23 *Hearings* 11231-32.

<sup>80</sup> *Ibid.*

## XII. SUMMARY

The transmittal of \$100,000 in \$100 bills from Howard Hughes to President Nixon's close friend, Charles G. Rebozo, several years prior to the 1972 election, reflects a number of classic issues inherent in the furnishing of large cash contributions to political campaigns:

1. Why were cash funds furnished to a close friend of the President rather than to any campaign official or organization?

2. Why were the funds contributed several years prior to the 1972 campaign for which they were allegedly intended, especially since Howard Hughes ultimately contributed another \$150,000 in 1972 to the Finance Committee To Re-Elect the President?

3. Did Howard Hughes profit in any way by his contribution to Rebozo on behalf of the President?

Mr. Rebozo's testimony about the matter steadfastly rejects any notion of impropriety in his receipt and handling of the two \$50,000 cash contributions. He has testified:

- that he finally agreed to accept the Hughes contribution in 1970 after rejecting it many times in 1968 and 1969 because of the possible embarrassment it might cause President Nixon;
- that the contribution was intended solely for the President's 1972 reelection campaign;
- that he placed the two \$50,000 cash contributions in his safe-deposit box without counting them and with instructions to his attorney to turn the money over to the President's campaign in case anything happened to Rebozo;
- that he subsequently destroyed these instructions sometime after the December 1970, split between Hughes and Maheu, thereby leaving \$100,000 in \$100 bills in his safe-deposit box with no evidence of the money's origin or purpose;
- that he subsequently removed the wrappers with the words "Las Vegas" from the money and wrapped the money in rubberbands while again not counting the money;
- that he did not use any of this money for any purpose, and that he returned the same identical \$100 bills to Mr. Hughes in the spring of 1973;
- that he told only Rose Mary Woods of the receipt of the funds until after the 1972 election, when he informed President Nixon, and that he informed others of the contribution after he decided to return the money; and
- that he had *no* discussions about the money with President Nixon and Mr. Danner on May 20, 1973, at Camp David, despite the fact that the meeting occurred *after* Rebozo had decided to return the money and *before* Danner agreed to accept it.

Indeed, Rebozo has maintained in all his testimony that his initial apprehension over accepting the cash contribution from Howard Hughes was exacerbated by the very public conflict that had erupted in late November 1970, between Robert Maheu and Howard Hughes. Had Rebozo understood the funds to be intended for the congressional races, he could easily have turned them over to the appropriate congressional campaigns prior to the conflict that later caused him such apprehension. And while the publicized confrontation between the Hughes factions may have deterred Rebozo from applying the funds to any cam-

paigned for 3 to 4 years, Rebozo testified that he never once attempted to contact any representative of Hughes, any representative of the Republican National Committee, or any representative of the President's reelection campaign to seek advice with regard to the funds until well after the 1972 Presidential election.

In fact, in early 1972, Rebozo began receiving and accepting a variety of contributions, properly established a bank account for such funds, and acknowledged the receipt of such funds to both the donors and the Finance Committee To Re-Elect the President. At no time, however, did he acknowledge in writing to Hughes or his representatives the receipt of the \$100,000 nor did he ever notify, as he did with other contributions in 1972, any campaign officials the receipt of \$100,000 until after the election. While Mr. Rebozo has always maintained that the funds were intended for the President's campaign, he has also testified that he maintained the \$100,000 well after the 1972 election because he believed it could be used for the 1974 congressional campaign or 1976 Presidential election.

Mr. Rebozo also insists that he never discussed the contribution with the President until well after the 1972 election and that Danner is mistaken in stating that he, Rebozo and the President met in 1968 and discussed the possibility of obtaining a contribution from Howard Hughes. Rebozo has testified that while he met with Mr. Danner on May 18 and May 20, 1973, in Washington to discuss the return of the contribution, at no time was the contribution discussed in the presence of President Nixon on May 20 at Camp David. Rebozo concedes that one of the issues discussed with Danner both at a hotel in Washington and at Camp David before the President arrived was his desire to return the funds to Danner, but Rebozo insists that the only topic discussed after the President arrived was Danner's perception of the mood on the west coast with regard to Watergate. The President, of course, knew by the time he met with Danner at Camp David that Rebozo had in fact been the recipient of a substantial contribution from the Hughes organization. The President, therefore, would have been fully aware that he was in the presence of the principals who had been involved in a contribution in which the IRS had suddenly expressed an interest. In any event, President Nixon, through his press spokesman, has denied any conversation ensued during that meeting with regard to the Hughes \$100,000.

In addition of course, the committee received evidence indicating that the President, prior to his meeting on May 20, 1973, with Danner and Rebozo, requested Rebozo to discuss with Herbert Kalmbach the issue of the receipt, use, and possible return of the Hughes \$100,000 on or about April 30, 1973. The committee also received testimony from Larry Higby that on or about April 30, 1973, H. R. Haldeman told Higby that the President informed Haldeman that Rebozo had available approximately \$400,000 to defray legal fees for both Haldeman and John Ehrlichman.

Much of the above information was contained in a letter Chairman Ervin and Vice Chairman Baker sent to the President's counsel, Mr. St. Clair on June 6, 1974. This letter contained additional specific information including evidence that the President requested that Mr. Rebozo contact J. Paul Getty regarding major contributions, evidence that Rebozo maintained a fund in Key Biscayne to take care of "ad-

ministration-connected costs," and a list of specific expenditures on behalf of the President exceeding \$50,000 that were ordered and paid for by Rebozo. These listed expenses on President Nixon's Key Biscayne properties included substantial alterations of the President's home and construction and equipping of a pool for the President. In his letter on behalf of President Nixon, dated June 20, 1974, St. Clair conveyed "the President's assurance that he never instructed C. G. Rebozo to raise and maintain funds to be expended on the President's personal behalf, nor, so far as he knows, was this ever done." In addition, the President through St. Clair declined to comment with regard to any of the expenditures amounting to over \$45,000 that Rebozo furnished on behalf of the President.

On the basis of the evidence reflected in the letter to Mr. St. Clair, Chairman Ervin sought to provide Rebozo with an opportunity to furnish information and documents to assist the committee in reviewing the evidence obtained by the staff. On one occasion in fact, Rebozo and his counsel agreed to provide the committee with certain documents the committee had sought through subpoena and to provide additional information through testimony. Instead of complying with the subpoena and furnishing the documents pursuant to the agreement entered into, however, Rebozo and counsel moved to quash the subpoena both in court and before the committee. The committee, by unanimous vote, rejected Rebozo's application and the Federal District Court for the District of Columbia recently denied an effort to enjoin the committee's subpoena and investigation of Rebozo. Indeed when an additional subpoena and letter was issued by Chairman Ervin in an effort to obtain Rebozo's responses to questions based on the above-described information, Rebozo was in Europe and, therefore, unavailable for the process of the subpoena. As a result, certain crucial testimony and documentation which was deemed necessary by the committee to clarify the factual matters related in this report have been denied the committee and the discrepancies and conflicts in testimony have not been finally resolved.

As a result, the committee has before it evidence which suggests a number of possible alternative resolutions of the factual material presented herein:

1. That Rebozo paid for the President's expenses out of his own funds. Since Rebozo declined to furnish the committee with all personal documents and with the pertinent documents from his bank, the committee has been unable to make a judgment with regard to this matter except to the extent of determining, based on the records that were provided by Rebozo, that the great portion of expenditures made for the President were not made out of Rebozo's bank account, and those made in currency were not made from Rebozo's personal funds derived from known sources.

2. That the President in effect paid for these expenses himself by later reimbursing Rebozo. While Rebozo's refusal to produce records and the President's failure to respond to specific issues in the letter of June 6 has hampered the committee's ability to make a judgment on this issue, the committee finds only one reimbursement, the \$13,642 check discussed in the body of the report. Moreover, the committee notes that the Coopers & Lybrand

report to the President made no mention of any outstanding liabilities due Rebozo.

3. That Rebozo paid for the expenditures on behalf of the President from another source of funds. The testimony and evidence before the committee indicates that the only other sources of funds available to Rebozo were campaign contributions. Again, the failure of key witnesses to comply with subpoenas frustrated the committee's efforts in conclusively resolving this issue.

The Select Committee diligently attempted to determine which one of these three alternative conclusions is accurate.

It could have undoubtedly made such a determination if Rebozo had made all of the records controlled by him or his bank relating to these matters available to the committee or if the President had availed himself of the opportunity to clarify or explain these matters which was extended to him in the June 6, 1974, letter from Senator Ervin, the committee chairman, and Senator Baker, vice chairman, to his lawyer, Mr. St. Clair.

Mr. Rebozo persisted in his refusal to make records controlled by him or his bank relating to these matters available to the committee and placed himself beyond the reach of the committee by traveling to Europe when he had reason to know that the remaining life of the committee precluded it from enforcing further subpoenas on him or others.

And unfortunately, the President did not avail himself of the opportunity to clarify or explain the matters arising out of his dealings and relationship with Rebozo.

In view of the above, the committee finds it appropriate that the matters set forth herein be pursued further by relevant investigative bodies.

### XIII. LEGISLATIVE RECOMMENDATIONS

**1. Communications between the White House and the Internal Revenue Service should be more strictly regulated. Specifically:**

- (a) Any requests, direct or indirect, for information or action made to the IRS by anyone in the Executive Office of the President, up to and including the President, should be recorded by the person making the request and by the IRS. Requests and responses by the IRS (i.e. whether information was provided), should be disclosed at least once a year to appropriate congressional oversight committees;
- (b) On "sensitive case reports," which cover special cases, the IRS should be permitted to disclose to persons in the Executive Office of the President, up to and including the President, *only* the name of the person or group in the report and the general nature of the investigation;
- (c) All persons in the Executive Office of the President, up to and including the President should be prohibited from receiving indirectly or directly any income tax return;
- (d) All requests for information or action and all IRS responses should be disclosed periodically to the appropriate congressional oversight committees.



There were numerous efforts by the White House to use the IRS for political purposes between 1969 and 1972. Particularly striking examples, such as attempts to use the IRS to harass persons perceived as "enemies," have already been exposed and discussed at great length by the Select Committee and other groups. In addition, there was misuse of the IRS by the White House regarding the IRS investigations of Rebozo, the President's brothers, and people connected with the Hughes operation. Because of the close relationship of several of the parties to the President, questions of improper White House influence in this case are particularly acute.

Recommendation (a) was prompted by examples of White House requests made regarding, among others, Larry O'Brien. In the spring of 1972 the IRS Commissioner, Johnnie Walters, decided to postpone until after the November election any further investigation of several people who had close relations to prospective Presidential nominees. These people included Larry O'Brien, the President's brothers, and Charles G. Rebozo. The decision was made as an effort to avoid any charges that the investigations were politically motivated. Roger Barth, then Assistant Commissioner of the IRS and a source of information for the White House, had told John Ehrlichman that O'Brien, the Nixon brothers, and Rebozo were or would be under investigation. At some point in the spring of 1972, Barth gave Ehrlichman a copy of a sensitive case report listing these names as subjects of interest to the IRS.

Although it is not clear whether Ehrlichman was told about Walters' decision to postpone the investigations, it is clear that Ehrlichman pressured Barth, Walters, and George Shultz, Secretary of the Treasury, into pursuing intensely the O'Brien investigation in the hope that information damaging to O'Brien might be uncovered before the election. Understandably, Ehrlichman did not push the IRS on the investigations of Rebozo or the Nixon brothers. O'Brien was pursued and interviewed, but Rebozo and the Nixon brothers were not.

Rather than trying to ban such requests from the White House or delineate those requests that are proper, the most straightforward approach is to require disclosure of all requests. Those that are clearly improper, such as the Ehrlichman request on O'Brien, are less likely to be made if the requesting party knows they will be disclosed to Congress. There have been, of course, proper White House requests to the IRS in this and preceding administrations. There is no reason to think that the effective functioning of the White House or the IRS will be impaired by the disclosure of such requests.

Recommendation (b) was prompted by the Select Committee's discovery that sensitive case reports on people involved in some way with Hughes were given regularly to John Ehrlichman by Roger Barth, apparently without the knowledge of Barth's superiors, including Commissioner Walters. Because some of those reports touched upon Rebozo and possibly on the President himself, the potential value of those reports to the White House is obvious. There is no sound policy reason for providing the White House with the details of ongoing investigations, and such disclosure could seriously mar the IRS's reputation for impartiality.

There are, however, legitimate reasons for providing the White House with enough information on sensitive cases to identify the person or group involved and the general nature of the IRS inquiry. For example, if the President were considering someone for appointment to a high Federal position, he should be able to know whether that person's tax status is under any particular scrutiny. Similarly, the President should be able to learn whether any of his aides or intimates are under investigation. Limiting disclosure by the IRS to identification of the party under investigation and a general statement about the investigation should provide enough information for the White House to decide what to do about the situation, i.e., continue to support, or perhaps withdraw a nomination. Requests for this basic information on sensitive case reports and the IRS's responses to the requests would, of course, be disclosed to the appropriate congressional committees under recommendation (a).

Recommendation (c) was prompted by those instances where individuals in the Executive Office of the President would seek and receive copies of income tax returns. Generally these were the returns of individuals perceived as enemies of the White House. That the returns were oftentimes sought and used for improper political purposes is clear. A statute prohibiting the receipt of income tax returns by those in the Executive Office of the President would do much to curb these improper practices.

In addition, by making receipt—rather than distribution—criminal, the statute would eliminate those instances where returns could be obtained indirectly from a governmental agency, e.g. a U.S. Attorney General's Office, which has full disclosure with the IRS.

**2. Congress should enact legislation requiring full financial disclosure by the President and Vice President of the United States to the General Accounting Office each year of all income, gifts, and things of value that they or their spouses have received during the year or expenditures made for their personal benefit or the benefit of their spouses by other individuals.**

Senators Ervin and Talmadge voted against the recommendation because they believe that public officials should be judged on the basis of the wisdom or unwisdom of their official actions, and not upon the basis of what they do or do not possess in this world's goods.

Presently, legislation requires that Congressmen and Senators file statements of financial disclosure each year. Certainly, the head of the executive branch of the Government should be held to no less a standard than the Members of the Legislature, and perhaps even held to a higher standard of disclosure because of the significance of his position.

Full financial disclosure by the President and Vice President to the public each year would also help protect the Office of the President, ensuring that no individual occupying the Office would be the object of any speculation, innuendo, or suggestion of impropriety regarding income, gifts, and expenditures. In addition, such a standard of full public disclosure would help to raise the ethical standards by which the public views its elected officials and would restore a measure of confidence in the workings of Government.

Examples of items which should be disclosed include the following:

- Copies of tax returns, declarations, statements, or other documents which were made individually or jointly for the preceding year in compliance with the provisions of the Internal Revenue Code;
- The identity of each interest in real or personal property having a value of \$10,000 or more which the President or Vice President or spouses owned at any time during the preceding year;
- The identity of each trust or other fiduciary relation in which the President or Vice President or spouses held a beneficial interest having a value of \$10,000 or more, and the identity, if known, of each interest of the trust or other fiduciary relation in real or personal property in which he or she held a beneficial interest having a value of \$10,000 or more at any time during the preceding year;
- The identity of each liability of \$5,000 or more owned by the President or Vice President or by them jointly with their spouses, at anytime during the preceding year; and
- The source and value of all gifts received by the President, Vice President, or spouses in the aggregate amount or value of \$50 or more from any single source received during the preceding year.

The information required to be filed with the GAO would be made public automatically unless there were some overriding reason to protect the confidentiality of the information. In such a case, the information would still be available to any standing, select or special committee of either House of Congress upon the receipt by GAO of a resolution requesting the transmission of such information.

### **3. State and local bar associations should conduct a study of the attorney-client privilege in light of the abuses of the privilege uncovered during the Select Committee's investigations.**

A strong attorney-client privilege is essential to the effective functioning of our legal system. It must be broad enough to encourage full disclosure by client, including disclosure of past criminal conduct. At the same time, the privilege should not be used to protect from disclosure communications involving violations of law and near violations that have nothing to do with the offering of legal advice by a lawyer. Providing information to a person who happens to be a lawyer, or involving him or her in one's affairs should not automatically cloak the transaction with the protections of the privilege.

In at least four instances during the Select Committee's investigations, the lawyer-client privilege has been pleaded as part of an attempt to cover up illegal or questionable activities that had nothing to do with the rendering of legal advice:

1. Mardian and Liddy in the Watergate coverup;
2. Dean and Segretti in the Watergate dirty tricks cover-up;
3. Kalmbach and Rebozo in the Hughes-Rebozo coverup;
4. Wakefield and Rebozo, also in the Hughes-Rebozo area.

A review of these cases by the various bar associations should help to clarify the proper limits of the privilege and provide more detailed guidance for lawyer, clients, and legislative and investigative bodies.

## APPENDIX

### INDIVIDUALS INTERVIEWED BY SENATE SELECT COMMITTEE STAFF DURING COURSE OF HUGHES-REBOZO INVESTIGATION

Abplanalp, Robert	November 1, 1973.	Comer, Katherine	Nov. 1973.
Acker, Marjorie	March 25, 1974.	Coyle, James	Nov. 14, 1973,
	May 6, 1974.		Jan. 10, 1974, Jan. 31, 1974.
Andrews, Vince, Jr.	December 7, 1973.	Crane, Richard	Feb. 14, 1974.
Bacon, Donald	January 31, 1974.	Cromar, Jack	Dec. 3, 1973,
Baker, Buchl	June 3, 1974.		Dec. 12, 1973.
Baker, Donald	November 26, 1973.	"D,"	Aug. 22, 1973,
Barker, Bernard	November 13, 1973,		May 7, 1974.
	January 4, 1974.	Dahl, Norman	October 23, 1973.
Barrick, Paul	May 16, 1974.	Danner, Richard	August 30, 1973,
Barth, Roger	July 31, 1973,		December 18-20, 1973, Decem-
	June 6, 1974.		ber 18-19, 1973, June 11-12,
Bartlett, Jack	May 16, 1974.		1974.
Bartley, Evelyn	January 17, 1974.	Davis, A. D.	March 19, 1974.
Bautzer, Greg	January 22, 1974.		April 11, 1974.
Beans, Robert.		Davis, Chester	October 10, 1973.
Bell, Thomas	December 17, 1974.		December 3-4, 1973, June 12, 1974.
Benedict, Alvin	December 10, 1973.	Davis, Irving,	
Bennett, Gen. John	May 18, 1974.	"Jack"	February 5, 1974.
Bennett, Robert	July 27, 1973,	Davis, Von.	
	September 6, 1973, September	Dawson, Ann	February 7, 1974.
	13, 1973, December 28, 1974,	Dean, John	July 31, 1973,
	January 2, 1974.		September 1973, October 24, 1973.
Bird, Robert	October 21, 1973.	Deboer, Franklin	August 8, 1973.
Bishop, Alvin	December 20, 1973.	DeFeo, Mike	February 14, 1974.
Blech, Arthur	October 26, 1973.	DeMarco, Frank	November 13-14,
	November 14, 1973, April 18,		1973, January 31, 1974, Febru-
	1974, June 3, 1974.		ary 1974, April 17, 1974.
Boggs, "Pat"	July 19, 1973.	Demott, Howard	July 23, 1973.
Brandt, William.		Dent, Robert.	
Briggs, William.		Desautels, Claude	October 20, 1973.
Brinn, Lawrence	May 22, 1974.	Ebner, Stanley	March 1974.
Brown, Howard	Oct. 25, 1973.	Ehrlichman, John	January 10, 1974,
Brown, Jack	May 13, 1974.		February 8, 1974.
Brown, Secor	Jan. 15, 1974.	Ellis, Richard	December 18, 1973.
Brownhill, Ruth	Jan. 15, 1974.	Elson, Dean	September 11, 1973.
Brummett, Jean	Dec. 21, 1973.	Evans, Harry	October 28, 1973.
Butterfield, Alexander	Sept. 18, 1973.	Fielding, Fred	July 12, 1973,
Buzhardt, Fred	Apr. 10, 1974,		February 8, 1974.
	Apr. 23, 1974, May 7, 1974.	Finch, Robert	November 15, 1973.
Campbell, Harold	Dec. 18, 1973.	Firestone, Leonard	April 17, 1974.
Cantor, Arthur	Dec. 4, 1973.	Flanigan, Peter	November 20, 1973.
Carney, Tom	Mar. 18, 1974.	Foley, Joseph	October 11, 1973.
Caulfield, John	May 15, 1974,	Garment, Leonard	April 4, 1974,
	Sept. 11-12, 1973, Sept. 18, 1973.		May 17, 1974.
	Mar. 16, 1974, Mar. 23, 1974.	Gay, Bill	October 9, 1973.
Cerny, Howard	Jan. 5, 1974.	Gemmill, Kenneth	December 3, 1973,
Chotiner, Murray	Aug. 9, 1973,		May 29, 1974.
	Aug. 17, 1973, Dec. 7, 1973.	Giller, Gen. Edward	October 16, 1973.
Clagett, J. H.	June 14, 1974.	Glaeser, Walter	December 3-4, 1973.
Clark, John	Jan. 10, 1974.	Golden, James	October 16 and 19,
Clark, Thos. R.	Oct. 15, 1973.		1973, January 2, 1974, June 27,
Clifford, George	Oct. 15, 1973.		1974.
Comegys, Walter	Nov. 5, 1973.		

- Gonzales, Virgilio----- November 10,  
1973, December 10, 1973.
- Grace, David----- October 30, 1973.
- Greenspun, Hank-- August 25 and 28,  
1973, April 18, 1974.
- Griffin, William----- December 7, 1973,  
January 8, 1974, March 28, 1974,  
April 19, 1974.
- Gribben, Dave--- December 3-4, 1973.
- Haig, Gen. Alexander----- May 2, 1974,  
May 15, 1974.
- Haldeman, H. R.----- July 25, 1973,  
July 30, 1973, November 9, 1973,  
January 31, 1974.
- Hall, Joan----- January 21, 1974.
- Hallamore, Barry----- November 15,  
1973, April 25, 1974.
- Hamilton, Wayne.
- Harrison, Jane Lucke---- January 16,  
1974.
- Hartman, June----- January 21, 1974.
- Harvey, Ann----- May 4, 1974.
- Helms, Richard----- March 18, 1974.
- Henley, Nadine----- January 22, 1974.
- Hewitt, Robert----- June 10, 1974.
- Higby, Lawrence----- May 22, 1974,  
June 24, 1974.
- Hillings, Patrick--- November 7, 1973.
- Hinkle, Sgt. Earl--- November 15, 1973.
- Hollingsworth, Robert---- October 17,  
1973.
- Holm, Holly----- July 24, 1973.
- Hullin, Tod----- January 11, 1974.
- Hummel, Robert--- November 30, 1973.
- Hruska, Janet----- July 12, 1973.
- Hunt, E. Howard--- July 25-26, 1973,  
September 10-14, 1973,  
December 17-18, 1973.
- Ihli, George.
- Jackson, Morton----- August 23, 1973.
- Johnson, Frank--- December 19, 1973.
- Jones, Linda Lee--- September 6, 1973.
- Juliana, James----- November 5, 1973.
- Kalmbach, Herbert----- September 24,  
1973, October 12, 1973, Novem-  
ber 13, 1973, March 8, 1974,  
March 21-22, 1974, May 5, 1974,  
June 13, 1974.
- Keeney, John C----- February 14, 1974.
- Klein, Herb----- August 27, 1973,  
November 16, 1973.
- Kleindienst, Richard--- October 19, 1973.
- Konowalski, Diane- September 7, 1973.
- LaRocco, Anthony--- September 21, 1973.
- LaRue, Fred----- July 6, 1976,  
July 7, 1973, October 15, 1973,  
April 9, 1974, May 28, 1974.
- Latham, Lee----- May 17, 1974.
- Laxalt, Paul----- October 11, 1973,  
December 19, 1973, January 2, 1974.
- Lee, Jean
- Lindenbaum, Sol--- December 26, 1973.
- Lynch, W----- February 21, 1974.
- Magruder, Jeb Stuart--- August 16, 1973.
- Maheu, Peter----- November 29, 1973.
- Maheu, Robert----- August 30, 1973,  
September 15, 1973, January 20-  
21, 1974, January 28, 1974.
- Mailloux, Pierre--- December 15, 1973.
- Malek, Fred----- April 18, 1974.
- Martin, Susan----- February 4, 1974.
- Martinez, Eugenio--- December 10, 1973.
- Messick, Hank----- January 15, 1974.
- Middendorf, J. W----- May 14, 1974.
- Miller, Clifford--- January 22, 1974.
- Mitchell, John----- October 18, 1973.
- Moncourt, Nicole----- April 1, 1974.
- Moore, Richard----- February 27, 1974.
- Morgan, Edward P----- September 7,  
December 5, 1973, March 6, May  
2, 1974.
- Morgan, Robert  
December 11-12, 1973.
- Murphy, Charles--- January 10, 1974.
- Murray, Thomas ----- October 1973.
- McCord, James--- September 17, 1973,  
October 23, 1973.
- McKiernan, Stanley----- April 15-16,  
1974, May 15, 1974.
- Nixon, Edward----- November 10, 1973,  
November 16-17, 1973, April 15,  
1974.
- Nixon, F. Donald--- November 8, 1973,  
November 16-17, 1973, April 15,  
1974.
- Newman, Ross----- October 19, 1973.
- O'Brien, Lawrence--- October 9, 1973,  
December 7, 1973.
- Olejniak, Virginia--- February 15, 1974.
- Peloquin, Robert--- December 28, 1973,  
March 15, 1974.
- Perdue, James----- June 15, 1974.
- Perez, Jenaro----- December 3, 1973.
- Perkins, Mahlon--- December 7, 1973.
- Petersen, Henry--- February 19, 1974.
- Pfeifer, Miss
- Ramey, James T----- October 16, 1973.
- Rashid, Baddia----- November 21, 1973.
- Real, Jack----- December 1, 1973.
- Rebozo, Charles G--- October 18, 1973,  
October 17, 1973, March 20-21, 1974,  
May 9, 1974.
- Reynolds, Anita Rebozo-- February 5,  
1974.
- Richardson, Elliot----- April 30, 1974.
- Rashid, Baddia----- November 21, 1973.
- Ryan, James----- June 6, 1974.
- Sabatino, Lewis----- May 22, 1974.
- Sample, Alexander, Jr-- December 18,  
1973.
- Schemmer, Ben----- October 10, 1973.
- Scott, Regina----- February 5, 1974.
- Shenker, Morris--- December 20, 1973.
- Shultz, George----- November 21, 1974,  
January 25, 1974.
- Simon, William----- May 7, 1974.

Sinnot, William-----	October 15, 1973, December 19, 1973.	Wakefield, Thomas--	October 18, 1973, January 16, 1974, June 10, 1974.
Sloan, Hugh-----	April 26, 1974.	Walters, Johnnie-----	June 14, 1974.
Smathers, George--	January 10, 1974.	Warren, Gerald-----	February 26, 1974.
Sprague, Robert		Wearley, Robert-----	December 2, 1973.
Stearns, Richard-----	October 3, 1973, December 10, 1973.	Webb, Thos., Jr.	
Strachan, Gordon-----	August 8, 1973.	Westman, Burton--	December 20, 1973.
Stuart, Charles-----	May, 1974.	Whitaker, Kenneth	November 20, 1973.
Sturgis, Frank-----	March 7, 1974.	Whittinghill, Charles-----	December 6, 1973.
Suckling, John R-----	October 25, 1973.	Wilson, Bruce-----	November 23, 1973.
Sullivan, William--	September 19, 1973, February 1974.	Winte, Ralph-----	August 28, 1973, August 30, 1973.
Swope, Wm-----	November 23, 1973.	Witwer, Allan-----	January 14, 1974.
"T"-----	January 5, 1974.	Woods, Rose Mary--	February 20, 1974, March 22, 1974.
"T"-----	August 25, 1973.	Wyman, Sidney---	December 20, 1973.
Taylor, Robert-----	October 27, 1973.	Young, Carl.	
Thomas, E. Parry--	December 20, 1973.	Yowell, Susan-----	February 27, 1974.
Todd, Webster-----	December 3, 1973.	Ziegler, Ron-----	June 24, 1974.
Ulasewicz, Anthony-----	July 9, 1973.	Zimmerman, Ed-----	February 7, 1974.
Val, Claudia-----	January 8, 1974.		

## INDIVIDUALS INTERVIEWED BY TELEPHONE

<i>Name</i>	<i>Date</i>	<i>Name</i>	<i>Date</i>
Adler, Howard-----	October 23, 1973, December 6, 1973.	Hayes, Jim-----	December 6, 1973.
Agnew, Spiro-----	June 24, 1974.	Heal, Terry.	
Albasia, Aldo-----	May 14, 1974, June 1, 1974, June 3, 1974.	Healy, Ray.	
Albright, Barbara-----	June 3, 1974.	Henderscheid, Robert.	
Ayer, William-----	November 26, 1973.	Hernandez, Renaldo.	
Barker, Dez-----	January 4, 1974.	Hooper, Ray.	
Barker, Robert.		Ianni, John-----	January 10, 1974, June 21, 1974.
Barry, William.		Jackson, Robert.	
Blech, Arthur-----	May 8, 1974, June 22, 1974.	Jaffe, Col-----	November 2, 1973.
Blicht, Albert.		Jones, Lyle-----	January 15, 1974.
Bonelli, Jaime-----	June 1, 1974.	Jones, Richard.	
Brandt, Mrs-----	June 4, 1974.	Jury, Mr.	
Bruzzella, R. W.		Kestenbaum, Lionel--	October 17, 1973.
Cantor, Arthur-----	October 17, 1973.	Kotoske, Tom-----	February 19, 1974.
Castro, June-----	June 3, 1974.	Kraushaar, I, N-----	April 10, 1974.
Chambers, R. W-----	January 11, 1974.	Lambert, Harry.	
Cleveland, Geraldine-----	May 18, 1974.	Little, Robert-----	June 1, 1974.
Comegys, Walter-----	October 23, 1973.	Masur, Wayne.	
Daniel, Mr.		Morgan, Edward L.	
Dekreek, Janet-----	December 3, 1973.	Morrison, Steve-----	June 5, 1974.
Delauer, Magel-----	October 22, 1973.	Morrison, Sue-----	January 18, 1974.
DeMarco, Frank-----	June 3, 1974.	Murchison, Clint, Jr-----	June 2, 1974.
Deskin, Ruth-----	April 5, 1974.	Murray, Gene.	
Desrosher, M. A.		Murray, Rita-----	October, 18, 1973.
Donnem, Roland-----	October 23, 1974.	McCaughlin, Robert--	June 4, 1974.
Douglas, Stephen.		McDonald, Robert---	December 4, 1973.
Ebner, Stanley-----	April 15, 1974.	McKiernan, Stanley---	December 10, 1973.
Eisenberg, Milton--	December 13, 1973.	McKillop, Roy, Sr.	
Fabergas, M-----	June 5, 1974.	McLaren, Richard---	October 17, 1973.
Feinberg, Joseph-----	June 6, 1974, June 10, 1974.	Nissen, David-----	January 31, 1974, February 12, 1974.
Figenshaw, James--	January 15, 1974.	Nunn, Gov. Louis.	
Fresh, Larry.		Plyler, Robert.	
Gayle, Thos.		Reagan, Robert.	
Gustafson, Tom-----	June 4, 1974.	Rix, H. John.	
Hall, Joan-----	May 1974.	Roche, Lois.	
Hallomere, Barry---	November 7, 1973.	Roth, George-----	November 20, 1973.
Hallomere, Lloyd--	November 6, 1973.	Ryhlick, Lawrence---	May 22, 1974, June 20, 1974.
Hamand, Joy-----	October 25, 1973.	Salkof, Godwin.	

Schade, Paul-----	October 29, 1973.	Sullivan, Margaret--	February 16, 1973.
Schaeffer, Don.		Tammer, Robert.	
Scheinbaum, Stan--	November 4, 1973.	Taylor, Paul, Jr.	
Scott, Robert.		Threlkind, Major.	
Scott, William-----	June 12, 1974.	Tillotson, Mr.	
	June 19-20, 1974.	Ulasewicz, Anthony--	April 20, 1974.
Shelton, Robert-----	May 29, 1974.	Vinson, Fred, Jr--	December 17, 1973.
Shermer, Robert.		Vagliotti, Gabriel.	
Siegel, Ronald.		Waggoner, Mr.	
Silberman, Irwin.		Wakefield, Thomas----	June 26, 1974.
Smith, Marquis-----	October 16, 1973.	Weiss, Leonard-----	October 31, 1973.
Snead, Robert.		Whittinghill, Charles --	December 11,
Spira, Sylvan.			1973.
Stewart, Chas. W.		Wilson, Mrs.	
Stuart, Charles-----	June 20, 1974.	Wilson, Will-----	February 6, 1974.
Suckling, John R---	October 11, 1973.	York, William, Jr.	
		Zimmerman, Ed-----	October 17, 1973.

## CHAPTER 9

### The Select Committee in Court

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#### I. OVERVIEW OF LITIGATION

More than most congressional committees in recent memory, the Select Committee, during its short life span, has been involved in various types of court proceedings. In total, the committee participated in over 60 different matters before the Federal courts. These ranged from the routine (e.g., obtaining writs of *habeas corpus ad testificandum* to secure the testimony of incarcerated witnesses) to the complex (e.g., the committee's suit to obtain certain Presidential tapes and materials, *Senate Select Committee v. Nixon*).

The suit against the President was the only proceeding in which the committee and its members appeared as plaintiffs in the traditional sense. However, the committee was a successful applicant for orders allowing it to confer limited or use immunity on 29 potential witnesses, thereby permitting it to obtain their testimony notwithstanding their assertion of the privilege against self-incrimination. A table providing the names of individuals for whom court orders allowing the conference of immunity were obtained, and other information relating to those orders, is found in the Appendix to the Hearings of Legal Documents (hereinafter "LA" for legal appendix).<sup>1</sup> The committee also successfully sought writs of *habeas corpus ad testificandum* on 22 occasions that allowed it to obtain the testimony of several Federal prisoners. Because other congressional committees may want to apply for immunity orders and *habeas* writs in the future, the Legal Appendix contains representative pleadings and other papers filed to achieve these results.

The committee also appeared as *Amicus Curiae* in four lawsuits including the litigation brought by the first Special Prosecutor to obtain Presidential tapes and documents, *Nixon v. Sirica*, 487 F.2d 700 (CA DC 1973). And the committee was a defendant in eight suits brought to prohibit or alter its proceedings. All these actions against the committee failed.

Four of the committee's litigative efforts are of particular importance. The tapes case, *Senate Select Committee v. Nixon*, has already been mentioned and receives further discussion below. Also important are:

*Application of United States Senate Select Committee on Presidential Campaign Activities*.<sup>2</sup> This matter involved an unsuccessful attempt by the first Special Prosecutor to have the court impose conditions—most importantly, a requirement that testi-

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<sup>1</sup> LA pp. 2154–55.

<sup>2</sup> LA p. 388 *et seq.*



mony be taken without television and radio coverage—on the grant of authority to the committee to confer limited immunity on John Dean and Jeb Magruder who otherwise would have been excused from testifying upon the assertion of their privilege against self-incrimination. The district court's opinion in this matter, which totally rejected the notion that a court could condition the issuance of an immunity order on the acceptance of restrictions by a congressional body, is reprinted in the Appendix.<sup>3</sup> See also at 361 F. Supp. 1270 (1973).

*National Citizens for Fairness to the Presidency, Inc., et al. v. Senate Select Committee, et al.*<sup>4</sup> In this case the plaintiffs, who contended that the committee's public hearings had disrupted domestic tranquility to the public detriment, unsuccessfully attempted to block those public hearings.

*Richard Danner, et al. v. Senate Select Committee, et al.*<sup>5</sup> The Summa Corp. (formerly the Hughes Tool Co.) and certain of its employees failed in this lawsuit to prevent the taking of their testimony in executive or private session.

These cases raised numerous fundamental questions concerning the role of Congress in our system of government and, particularly, its relationship with the other two coordinate branches. For example: The right of Congress to investigate criminal conduct. The duty of Congress to inform the public by publicizing its findings of executive misdeeds. The power of Congress to obtain information for its investigations from the executive branch, by subpoena if necessary, where a claim of executive privilege is raised. The authority of the Federal courts to entertain suits between Congress and the executive. The authority of Congress to conduct its investigations in secret until it decides publicly to disclose its findings. The right of Congress to investigate criminal conduct against the claim that fair trials might be impaired. The requirements of "Due Process" in regard to congressional hearings. The scope of congressional immunity under the "Speech and Debate Clause" of the Constitution. Because these issues are explored in detail in the pleadings in these lawsuits, they are not analyzed here; rather, we have included the major papers submitted in these litigations in the Appendix to the Hearings of Legal Documents. While the committee's papers were often filed under considerable time pressures dictated by the exigencies of the moment, they do present basic statements of congressional rights, duties, and prerogatives respecting the issues outlined above. Other legal documents of relevance besides those mentioned are also included in the Appendix, as its table of contents indicates.

Some additional comments respecting *Senate Select Committee v. Nixon* and *Danner v. Senate Select Committee* are necessary because the committee's experiences in these cases give rise to several recommended reforms in the law that are outlined below.

1. *Senate Select Committee v. Nixon*—to date, the only recorded civil suit in history by the Congress against the President for production of material relating to Presidential communications—was filed on August 9, 1973, shortly after the President dishonored two subpoenas

<sup>3</sup> LA p. 479 *et seq.*

<sup>4</sup> LA p. 1768 *et seq.*

<sup>5</sup> LA p. 1972 *et seq.*

issued to him on July 23, 1973, which sought five specified tape recordings of Presidential conversations and other White House documents and materials. The existence of these tapes had been revealed to the public on July 16, 1973, through the testimony to the committee of Alexander P. Butterfield, a former Deputy Assistant to the President. The committee issued its subpoenas and filed its suit against the President only after informal attempts to obtain tapes and other relevant material from the President had failed.

The committee chose this route to enforce its subpoenas because it appeared unseemly to attempt enforcement by initiating statutory contempt proceedings against the President (see 2 U.S.C. 192) or by employing the self-help measures at the Senate's command (see e.g., *Jurney v. MacCracken*, 294 U.S. 125 (1935)).

On August 29, 1973, the first day possible after the complaint was filed, the committee submitted a motion for summary judgment requesting a declaratory judgment that its subpoenas were valid and should be honored. (As the record shows, the committee sought expedition of this litigation at every stage.) However, on October 17, 1973, the district court (Sirica, Ch. J.) dismissed this action for lack of jurisdiction.<sup>6</sup>

Meanwhile, the Special Prosecutor's case for certain Presidential tapes and documents was making its way through the courts. Special Prosecutor Cox was eventually successful in obtaining most of the material sought. (See *Nixon v. Sirica*, *supra*.) Because his litigation was ancillary to a grand jury proceeding, the Special Prosecutor was not troubled with questions of jurisdiction and other problems that attend civil litigation as was the Select Committee.

The committee appealed Judge Sirica's ruling on October 19, 1973. Two days after appeal was noted, Senators Ervin and Baker, at the President's behest, met with the President and two of his counsel at the White House. After that meeting, it was suggested in the press that these Senators had agreed to a "compromise" of the committee's lawsuit whereby the committee would forego its litigation in exchange for "summaries" of certain tapes that would be verified by Senator John Stennis. The next day, October 20, the first Special Prosecutor was dismissed for not agreeing to the so-called "Stennis Compromise," and the Attorney General, Elliot Richardson, and the Deputy Attorney General, William Ruckelshaus, resigned. The fact of the matter, as reported to the Court of Appeals on October 23, 1973,<sup>7</sup> is that Senators Ervin and Baker agreed to no such compromise. While the President *unilaterally* offered certain materials to the committee, there was not even a tentative commitment by its Chairman and Vice Chairman that, as a *quid pro quo*, the suit would be withdrawn. To the contrary, it was clearly understood by Senators Ervin and Baker that the committee, in all events, could pursue its lawsuit. Moreover, these two Senators understood that the President was offering the committee verbatim transcripts of the conversations at issue, not mere "summaries." As it happened, the "Stennis Compromise" never materialized and the suit continued.

The committee was and is of the view that Judge Sirica's jurisdictional ruling, particularly in regard to the requirements of 28 U.S.C.

<sup>6</sup> His opinion is at LA p. 980 *et seq.*

<sup>7</sup> LA p. 999 *et seq.*

1331 (the basic Federal question jurisdictional provision), constitutes both a misstatement and a misapplication of existing law. Nevertheless, while the case was on appeal, Senator Ervin introduced, and the Congress soon passed, a bill giving the district court jurisdiction over this and other cases brought by the Select Committee to enforce subpoenas issued by it to the executive branch. The bill, which was not vetoed by the President, became Public Law 93-190 on December 19, 1973, after the President failed to sign it within 10 days of transmittal to him.<sup>8</sup> Public Law 93-190 does not cover suits brought by other congressional bodies against the executive branch for production of information. Senator Ervin initially, on November 2, 1973, had introduced a more inclusive bill that would have provided jurisdiction for all suits to enforce congressional subpoenas issued to the President or other officers and employees of the executive branch by either House of Congress, any committee or subcommittee of either House, or any joint committee of Congress.<sup>9</sup> The bill that eventually became Public Law 93-190 was substituted for this proposal.

The Senate also, on November 7, 1973, promulgated Senate Resolution 194, 93d Congress, first session, which affirmed that the Select Committee was authorized by the Senate to subpoena and sue the President.<sup>10</sup> S. Res. 194 also declared it was the sense of the Senate that the committee, in subpoenaing and suing the President to obtain the information in question, was acting with valid legislative purpose and seeking information vital to its legislative missions.

On January 25, 1974, Judge Gesell, to whom the case had been reassigned upon remand, declined to enforce the committee's subpoena that called for a number of unspecified documents and other materials on the grounds that it was too vague, particularly in view of the stringent requirements established by *Nixon v. Sirica* applicable where a claim of executive privilege is raised. The same Judge, on February 8, 1974, while ruling for the committee on basic issues such as the invalidity of the President's claims regarding executive privilege, justiciability, and relevance of the material sought under S. Res. 60, declined to enforce the committee's other subpoena for five specified tape recordings and dismissed the litigation without prejudice. The court's ruling was grounded on its view that enforcing the subpoena and releasing the tapes to the committee might give potential defendants in the Watergate trials the opportunity to contend with greater force that their trials had been irrevocably prejudiced by pretrial publicity.

Between the date of the lower court's ruling and the issuance of the Court of Appeals' opinion on May 23, 1974,<sup>11</sup> two highly significant events occurred. First, the House Judiciary Committee, which was considering the President's impeachment, received copies of the five tape recordings at issue in the Select Committee's suit. Second, the President released to the public partial, unauthenticated transcripts of these five conversations, among others.

The Court of Appeals subsequently affirmed the lower court's ruling, but not for the reasons posited by the district court. The appellate court began by holding that Presidential conversations are "presump-

<sup>8</sup> LA p. 1083.

<sup>9</sup> LA pp. 1095-96.

<sup>10</sup> LA pp. 1084-86.

<sup>11</sup> LA p. 1743 *et seq.*

tuously privileged" and that this presumption can be defeated only by a "strong" showing of public need by the institution of Government seeking access to the conversations—"a showing that the responsibilities of that institution cannot responsibly be fulfilled without access to records of the President's deliberations."<sup>12</sup> The court then stated:

Particularly in light of events that have occurred since this litigation was begun and, indeed, since the district court issued its decision, we find that the Select Committee has failed to make the requisite showing.

Because the House Judiciary Committee possessed copies of the five recordings in issue, the court held that the Select Committee's subpoena could not be sustained on the basis of a need to fulfill Congress' informing and oversight functions.<sup>13</sup> And, because partial transcripts of the five conversations involved had been partially released and it appeared that the impeachment findings of the House would, in the near future, be made public, the court held that the committee had not shown that the material sought was "critical" to its law-making functions.

It is clear, therefore, that the court's decision rested, as the court observed, on "the peculiar circumstances of this case", and should not necessarily prevent legislative committees in the future from obtaining materials relating to Presidential communications. Moreover, because of the unique factual context, the court's opinion should have little relevance in the future respecting congressional efforts to achieve executive branch materials that do not concern Presidential conversations or deliberations.

It is noteworthy, in terms of the recommendations we present below, that the Attorney General filed an *Amicus Curiae* brief in the Court of Appeals opposing the committee's contentions. A similar antagonism to the congressional position was in evidence in *Application of United States Senate Select Committee* where the Special Prosecutor opposed the committee's stand that the district court had no power to condition the grant of an immunity order.

2. We conclude this brief review by noting that *Danner v. Select Committee*, the litigation brought by the Summa Corporation and others to proscribe the taking of testimony in executive session, raised an important question respecting the right of the Senate under existing law to conduct sensitive investigations in private session. Section 190a-1(b) of Title 2 provides:

Each hearing conducted by each standing, select, or special committee of the Senate (except the Committee on Appropriations) shall be open to the public except when the committee determines that the testimony to be taken at that hearing may relate to a matter of national security, may tend to reflect

<sup>12</sup> The Court refused to accept the Committee's argument that the presumption in their case was dispelled because there was a *prima facie* case that the President and his aides had engaged in criminal conduct. The Court also disagreed with the Committee's position that the presumption should dissipate because, as the Court in regard to four of the five tapes at issue held in *Nixon v. Sirica*, 417 F. 2d at 718, "(t)he simple fact is that the conversations are no longer confidential" after the wealth of information published as to their contents.

<sup>13</sup> The Committee notes, however, that the publication of even the partial, unauthenticated transcripts released by the President fully vindicates its long-voiced claim that it should receive the tapes subpoenaed so that the public could be informed of the extent of wrongdoing in the executive branch.

adversely on the character or reputation of the witness or any other individual, or may divulge matters deemed confidential under other provisions of law or Government regulations . . .

The committee, respecting the investigation involved in the Danner suit, had no difficulty making the determination specified in the statute because the possibility of defamation and the revelation of national security matters was established. But, as discussed in more detail below, there may come times when a senatorial committee would need to conduct its investigations in secret for other legitimate reasons.

## II. DISCUSSIONS AND RECOMMENDATIONS

**1. The committee recommends that Congress enact legislation giving the United States District Court for the District of Columbia jurisdiction over suits to enforce congressional subpoenas issued to members of the executive branch, including the President. This statute, which would apply to all subpoenas issued by congressional bodies, would replace the special statute passed for and limited to the Select Committee that is now codified as 28 U.S.C. 1364. The statute should provide that a congressional body has standing to sue in its own name and in the name of the United States and may employ counsel of its own choice in such a suit. The statute should provide that suits brought to enforce congressional subpoenas must be handled on an expedited basis by the courts.**

The Congress continually needs information from the executive branch to fulfill its critical oversight and informing functions. A major lesson of Watergate is the need for vigorous congressional oversight—without the committee's hearings many of the salient facts respecting the Watergate affair, including the existence of the Presidential tapes, might never have surfaced. Moreover, the Supreme Court has long stressed the vital importance of Congress' role as the informer of the public of wrongdoing, inefficiency, and waste in the executive branch.

Congress can often force production of information from the executive by use of political sanctions—for example, administration bills can be voted down, appropriations denied, nominations rejected. But frequently these political devices are not available. At times a Congressman can obtain information—like any other citizen—under the Freedom of Information Act, but there are many limitations to that statute's applicability. Congress also has available, to redress the refusal to comply with a subpoena, its self-help powers or the statutory contempt procedures contained in 2 U.S.C. 192, but these drastic remedies are often time consuming and singularly inappropriate where high executive officials are involved. The impeachment process is likewise a manifestly awkward vehicle by which to force executive production of evidence.

It thus seems appropriate to provide another remedy to Congress to allow it promptly to enforce its subpoenas against the executive—the

ability to bring an *expedited* civil action to achieve a ruling on the validity and enforceability of congressional subpoenas.<sup>14</sup>

The Congress would not be forced to use this method of enforcing its subpoenas, but it would be available if other remedies were not suitable. Moreover, disputes between the Congress and the executive often involve constitutional questions that the Federal Courts—as the ultimate interpreters of the Constitution—are well equipped to resolve.

**2. The Select Committee recommends that Congress give careful consideration to the bill now before the Senate (S. 2569) that would establish a Congressional Legal Service and thus give Congress a litigation arm that would allow it to protect its interest in court by its own counsel.**

As the suit to obtain Presidential materials and the litigation involving the Dean/Magruder immunity orders demonstrate, there are times where Congress' interests diverge from those of the executive. Indeed, in those two cases, the two branches were pitted against each other and their immediate interests were largely conflicting. In many instances where Congressmen are parties to litigation, they are represented by the Department of Justice. But such an arrangement is obviously unacceptable where executive interests conflict with congressional interests. The Select Committee, which had a litigating staff, was able to conduct its own lawsuits, but many congressional committees, not similarly staffed, might find litigation activity difficult. The establishment of a Congressional Legal Service would provide Congress a permanent litigation arm and thus meet this problem.

**3. The Select Committee recommends that Congress amend 2 U.S.C. 190a-1(b) to allow a senatorial committee or its staff to take testimony and evidence in private session upon an express determination by the committee that the requirements of efficient and productive investigation so require and that the investigation would be materially harmed if a regimen of confidentiality were not imposed. The amended statute, however, should provide that testimony or evidence taken in confidence for these reasons should be released to the public as soon as the requirements of efficient investigation no longer demand confidentiality.**

Section 190a-1(b), as it now stands, does not fully meet the needs of an investigative committee—especially one exploring sensitive or criminal matters. While the general proposition that senatorial hearings should be public is sound, it must be recognized that efficient investigatory techniques require that, at times, testimony and evidence be received in confidence. Such occasions may arise in circumstances not now covered by 2 U.S.C. 190a-1(b), which only provides for private hearings where defamation or the release of national security

<sup>14</sup> The statute here recommended would be similar to that first introduced by Senator Ervin after Judge Sirica's ruling dismissing the Committee's suit against the President for lack of jurisdiction (LA pp. 1084-86), but would additionally include a provision for expedition.

information might result, or where confidentiality is required by Federal law or regulation. For example, in many circumstances testimony and evidence should be taken in private to prevent leads from drying up or witnesses from disappearing. Or it might be necessary to withhold the testimony of one witness from a subsequent witness to avoid the tailoring of later testimony. Moreover, in circumstances such as those experienced by the Select Committee where many hundreds of witnesses were interviewed in private throughout the Nation (both in executive session before a Senator and in private staff interviews), it is simply not efficient to require that all investigatory sessions be conducted in public. Section 190a-1(b) could justifiably be interpreted as *not* applying to informal staff interviews, but, in any event, amendment of this section is necessary to allow the full utilization of efficient investigatory procedures. Because the general policy of open government reflected in the current section 190a-1(b) is salutary, the amendment we propose would provide that the evidence taken in private sessions would be made public as soon as proper investigatory techniques no longer require that it be kept private.

## CHAPTER 10

### The Select Committee's Use of Computer Technology

#### I. INTRODUCTION AND OVERVIEW

To accomplish its investigative task, the staff of the Select Committee had to analyze a considerable amount of information available concerning the Watergate incident and related activities. Included among this data was the transcript of the Watergate trial held in January 1973 and various newspaper articles published since the break-in on June 17, 1972. In addition, many interviews, investigative reports, and much documentary evidence had to be obtained for the committee to conduct a thorough investigation.

In early March, the committee's information was processed by hand. An elaborate file card indexing technique was employed patterned after one used by military intelligence agencies. Trained researchers would read testimony and documentary evidence and abstract the facts contained therein. References to each person discussed, along with the date of the activities testified about and the location of the activities were included with the paragraph or abstract. This data, after being taped on cassette tape records, was transcribed onto 3 x 5 cards. One card was made for each person, date and location discussed and placed in three files. Thus, staff members could utilize any of the files.

By the middle of March, over 10,000 file cards had been produced, yet the backlog of information available had scarcely been processed. Other problems developed. Since there was only one complete file card system, only one person could employ the system at a time. The size of the file made reproduction of the system for each individual's use impracticable. To prepare reports about individuals, dates, or general events, the card file had to be totally reviewed by hand, consuming valuable time; and given the time frame within which the committee had to operate, it was believed this procedure would seriously affect the total investigation.

Therefore, in late March, the Select Committee decided to explore the possibility of using automation to facilitate organization and analysis of the information to be collected. Samuel Dash and members of the Select Committee staff met with Paul Reimers, Coordinator of Information Systems, and other persons from the Library of Congress Information Systems Office.

The requirements of the system were established. A generalized file system was needed with full text processing and all Boolean search capability. The Select Committee had to be able to formulate its search request with both positive and negative qualifiers. An updating capability had to be a major feature of the system since new information



would be continually obtained by the Select Committee. Lastly, but probably most important, the Select Committee's security procedures precluded using an online system; therefore, the proposed system would have to allow for batch application processing.

After a few meetings in early April, it became apparent that a computer system did exist that was well suited to fulfill the needs of the Select Committee. It was BIBSYS.

Bibliographic System or BIBSYS is part of the Library of Congress information network designed to enable the user to establish and maintain a machine-readable information file. Using a modified machine-readable catalog (MARC II) internal processing format, it can produce a variety of reports from the data base. For example, some of those envisioned during the meetings were cross-reference reports on individuals mentioned, special reports on specific individuals mentioned, chronological date-of-event reports, and KWIC (keyword in context) indexes, all of which are discussed below.

Tags were used to identify fields of data at the time of data entry but without compromising the use of the data in later processing. The technique required a minimum of machine identification data to be input in conjunction with the textual information. The subsystems of BIBSYS developed for the Select Committee's use were the file maintenance cycle, the retrieval system, the field inversion cycle, and the report cycle.

The Library of Congress made available for the Select Committee's use the following hardware: one IBM 370 MOD 145 (512K), three 3330 disk packs, one 2314 disk pack, two 2400 tape drives using nine track tapes—1600 BPI, two 1403 line printers, one 2501 card reader, and a digi-data converter for MTST input. The software consisted of OS/VS1 operating system, SORT and utilities, ANS COBOL compiler version 2, 12 application programs written in ANS COBOL, and 2 ALC application programs.

With the approval of the Select Committee, the computer operation was inaugurated. Within 2 weeks, sample programs had been adapted for the committee's use and tested. Sample records were processed in early May, approximately 1 week before the public hearings began. The tests were successful. On May 15, 1973, using a borrowed staff of key-to-tape operators, the first actual records were input.

## II. PROCESSING THE DATA

The input procedures were simple yet comprehensive. Each bit of testimony, either public or confidential, was read by a staff of trained researchers who abstracted out the essential facts. These researchers dictated the source of the information or the witness, the date the testimony was given, and the geographic location at which the testimony was taken. The title of the document and the page number from which the facts were abstracted were also included. Following this, a complete summary of the information was dictated onto the tape. To insure a chronological sorting capability, researchers were instructed to produce one abstract for testimony concerning activities on a certain date. Through this method, as will be discussed later, the data could be sorted in day-by-day chronological order.

The remaining fields in the records contained references to persons quoted by the witness and the date of the quote, persons acting in the

testimony along with the date and location of the activity. Lastly, each record was categorized into 44 general subject/topics delineating the general areas under investigation.

Once this was dictated by the researchers, the cassette tapes were given to a secretarial staff which transcribed the information onto "input sheets." These sheets were returned to the computer research staff for a series of editorial changes, both substantive and technical. Each sheet was reviewed for accuracy three times before it was ready for computer input.

After the editorial process was complete, the records were given to two key-to-tape machine operators who transferred the information onto magnetic tape. Once on tape, the information was printed out from the computer tapes or "dumped" to insure that no other errors existed. These preliminary printouts or "dumps" were then edited for substantive and technical errors. The tape, with corrections, was returned to the key-to-tape machine operators who corrected the errors on the tape. The tapes were then ready for the actual input into the machine.

This initial process was later altered with the advent of Magnetic Tape Selectric Typewriters (MTST's). The use of these machines enabled the computer staff to eliminate two steps in the input process. Since a skilled secretary could format the data by adding the appropriate computer codes directly from a cassette tape, there no longer was a need to type up "input sheets." Secondly, the MTST machines simultaneously stored the data on a magnetic tape cartridge and provided a readable copy of the data on tape. Therefore, the staff no longer needed to "dump" or print out the tapes created.\*

The computer used by the Select Committee was an IBM 370/145 located at the Library of Congress Annex. Elaborate security measures were implemented designed to insure that no unauthorized individual or organization could obtain information from the computer data base. It was decided that no data would be stored at the Library itself. Instead, the master tapes, containing all the data collected, were kept secure within the Select Committee's files. When the actual processing took place on Monday, Wednesday, and Friday, from midnite to 6 a.m., the tapes were delivered to the computer room by a Select Committee staff courier along with a police escort. Once in the machine room, the courier was not permitted to leave the tapes alone and only he, a systems analyst, and an operator were permitted in the room during the processing of the data. When Select Committee data was processed, no noncommittee applications were run simultaneously; a completely dedicated machine was used to insure no spillover of data from or to the Select Committee's computer file. Upon completion of the processing, the courier, under police guard, returned to the Select Committee offices with the tapes and any readable data.

### III. FORMAT OF THE DATA

Each bit of information or "record" consisted of eight fields of data. The first field contained a number uniquely identifying the record. The second field contained four subfields: the name of the person or organization that was the source of the abstract, the date the testimony or data

\*See p. 1095 for flowchart comparing the procedures for inputting data by the key-to-tape process and MTST process.

was given, a computerized transfiguration of that same date listing the year, month, and day in a six-digit number, and the city, State, or location at which the information was taken. The next field contained the title of the document from which the abstract was taken. The microfilm number, indicating on which roll and frame the document abstracted from was filmed, was included in this field.

After the third field, the abstract was included. These were summaries of the factual testimony given. During the public hearings, only facts relating to the events under investigation were abstracted. Discussions of legal principles, Select Committee procedure, and anecdotes were not abstracted. In most cases, these abstracts were based upon testimony given concerning a certain date or event; they were not verbatim accounts of the actual testimony.

After the abstract, there existed in most every record a field which contained "comments by the abstractor." These comments ranged from identifying the date of the transaction to pointing out that the abstract was inconsistent with previously given testimony or identifying a person involved in the transaction who was not otherwise identified during the specific testimony abstracted. After the comment, the abstractor who inserted the comment included his/her name and the date the comment was inserted into the record. The sixth field which followed contained the names of any individuals quoted in the abstract, along with the date the quote was made.

As mentioned before, each record contained a cross-reference list of all persons or organizations acting in the abstract. This was included in the seventh field. There were four subfields to this field: the first contained the name of the person or organization; the second contained the date that person acted; the third listed the six-digit transfiguration of the computer date; and the fourth was the location that the person or organization acted. Each record contained a variable number of these fields based mainly on the nature of the abstract.

After the cross-reference field, each record contained at least one subject-topic field. These fields contained three digit number designations of specific subject/topics and were designed to fit the various areas under investigation.

This record format permitted the Select Committee to analyze the stored data in the following methods: name discussed, date of event, subject matter, persons quoted, witness, and source-document.

Part of the record input into the machine was a reference to each person or organization about which the abstract dealt. In addition, the date this person or organization acted was included. Therefore, requests could be and were structured to instruct the computer to retrieve all records with an individual's name in this reference field and then to sort all these records in chronological order based upon the date associated with that name. The result—a chronological report of every fact about which testimony had been given concerning any individual or organization mentioned.

Since reconstructing a sequence of events was vital to the Select Committee's investigation, this was also a major feature of the computer's capability. Through proper programing, a complete chronological listing of events could be reconstructed based upon all the records input into the data base. This enabled the staff to retrieve testi-

mony from a multitude of witnesses concerning a particular date or series of dates, and then analyze—given the nature or the source of the information, that is, whether it was from a newspaper article or given under oath—what actually happened.

Each record, as mentioned before, was categorized into various subject areas. If the testimony dealt with the Watergate phase of the investigation or campaign financing phase, it was appropriately coded as such. These subject codes enabled the staff of the Select Committee to retrieve and analyze data concerning general events within the overall investigation. They could also be added as positive or negative qualifiers to other retrieval requests to limit the topical scope of a computer run. For example, a request could be made for all testimony about a certain individual but only if that information dealt with the general Watergate phase of the investigation or selected areas within the other phases of the investigation.

Additionally, the format of the records permitted the staff to obtain information from any document where a particular person was the source or where a specific individual was quoted. This request could be limited so that information was retrieved from certain documents, either as a group—to wit, only executive sessions or interviews or public statements under oath or individually, such as a particular person's interview—an executive session, or public testimony before the Select Committee.

Thus, once testimony was placed on computer tapes, the problems previously experienced with the card file system were alleviated. The references could be rearranged on the machine's "disk packs" and then printed out in a desired format. Since it was done through automation rather than manual review of a card file, the time necessary to complete the request was minimal.

#### IV. INVESTIGATIVE USE OF THE COMPUTER

Since time constraints precluded training each staff member computer request methodology, the Select Committee created a specially trained staff to act as a liaison between the investigative staff and the computer systems analyst. Requests from the investigative staff were thus translated into the necessary computer terminology by the computer staff.

When a particular witness or series of witnesses was to be interrogated, a request was made to retrieve from the computer all the information the Select Committee had collected. For security reasons, no staff member could obtain a computer printout without first receiving written authorization from either the Chief Counsel or Chief Minority Counsel. This insured that the heads of the staff knew who was getting what information.

During the public hearings, printouts on the upcoming witnesses were run regularly. Given the inputting system employed, it was possible to have one week's testimony in the computer ready for retrieval and analysis before the beginning of hearings the following week. Thus, to maintain a complete file, new testimony was continually being integrated with data obtained from prior witnesses.

Printouts of information on each new witness were distributed to the Chief Counsel and Chief Minority Counsel. The printouts listed all information in the computer file about the witness that had been stored in the machine up to that date. Once provided, the printouts served as an additional source upon which interrogations were based.

The same procedure was followed for confidential interviews and testimony taken in executive session. Printouts were produced, integrated into the staff members' personal notes, and the interrogation undertaken. With the computer's facility to "not forget" and a properly entered name, date, or subject matter, the interrogator had at his fingertips all information about the person to be interrogated.

Since data was input into the machine at least 3 times per week, the printouts produced were very much up to date. A source document title along with the pages from which the facts were abstracted was included with each abstract. This enabled the user, if necessary, to go to the original document to obtain the verbatim account.

In addition, the computer was employed to sort and analyze other data. The Select Committee subpoenaed telephone records from a number of individuals. These records were presented to the staff of the committee in the form of the monthly bill statements received by the person under subpoena from the telephone company.

A separate computer file was established listing the telephone number from which the call was made, the number to which the call was placed, the date of the phone call, the locations (city, State) of both phone numbers, the time of day of the call (designated in terms of a 2400 hour clock; 1630, 0843, et cetera) as well as the duration of the call. Collect calls and those made from phones other than the business or home phone of the caller, yet nonetheless billed to either the home or business phone of the caller, were also included in the file.

Approximately 12,000 telephone calls were input into this file. Printouts were prepared, upon request, that retrieved and sorted phone calls from one number to another, all calls to one specific number or series of numbers owned by an individual, phone calls made during a specific time period, et cetera.

Thus the staff was able to review thousands of telephone calls quickly and efficiently. Through the use of a master list of telephone numbers and corresponding owners, the staff could isolate contacts between particular persons either generally or on specific dates from data that was accurately collected by an independent entity, the telephone company.

## V. COOPERATION WITH OTHER INVESTIGATIVE BODIES

Special Prosecutor Archibald Cox, shortly after his appointment on May 18, 1973, held a series of meetings with the Select Committee's Chief Counsel. Mr. Cox realized that his office too could alleviate many of the information retrieval problems facing it through the use of a computer. After a few meetings between members of his staff and the Select Committee computer staff, Special Prosecutor Cox requested the Select Committee provide his Office with all public information from its computer tapes. In addition, since the system was

a totally new one, it was agreed that the Select Committee would train personnel from his staff to abstract testimony and input it into the computer. For 3 weeks, personnel from the Special Prosecutor's Office were trained by the computer staff of the Select Committee. From September 14, 1973, through the end of January 1974, the Select Committee made available to the Special Prosecutor over 10,000 records containing public information. By doing so, it saved the Special Prosecutor's Office the almost 20,000 man-hours it had taken the Select Committee to computerize the information.

On March 5, 1974, Senator Ervin, responding for the entire committee to a request by then Special Prosecutor Jaworski, agreed to turn over all materials in the Select Committee's files that would aid him in his investigation. This agreement included all information on computer tapes, over 25,000 records.

In January 1974, the House Judiciary Committee, investigating the possible impeachment of the President, was, just as the Special Prosecutor, faced with the problem of devising an information retrieval system. Mr. John Doar, Special Counsel to the Judiciary Committee, requested information from the Select Committee's computerized files. On February 7, 1974, the Select Committee met and agreed to furnish the House Judiciary Committee with all information on its computer tapes. One week later, duplicates of all the Select Committee computer tapes were turned over to the House Judiciary Committee, a transfer of information saving them thousands of man-hours.

After receiving many requests from various State and local bar associations for information concerning possible unethical conduct on the part of attorneys in the Watergate incident, the committee decided that it would be compatible with its investigation to supply public information in printout form. Using as a conduit for requests the American Bar Association Center for Professional Discipline, the committee made available to these bar associations public information in printout form on individuals identified by the associations as being under investigation.

Requests for public information printouts were also made to the committee by attorneys representing individuals indicted for their participation in the Watergate incident. Knowing the tremendous value of computerized printouts and that these trials were to determine ultimate individual criminal liability, the committee felt, out of fairness, that these printouts should be made available to the defendants. On May 9, 1974, the committee in executive session unanimously voted to make available to these individuals, at their expense, printouts of public information and any confidential information that the person making the request had given to the Select Committee.

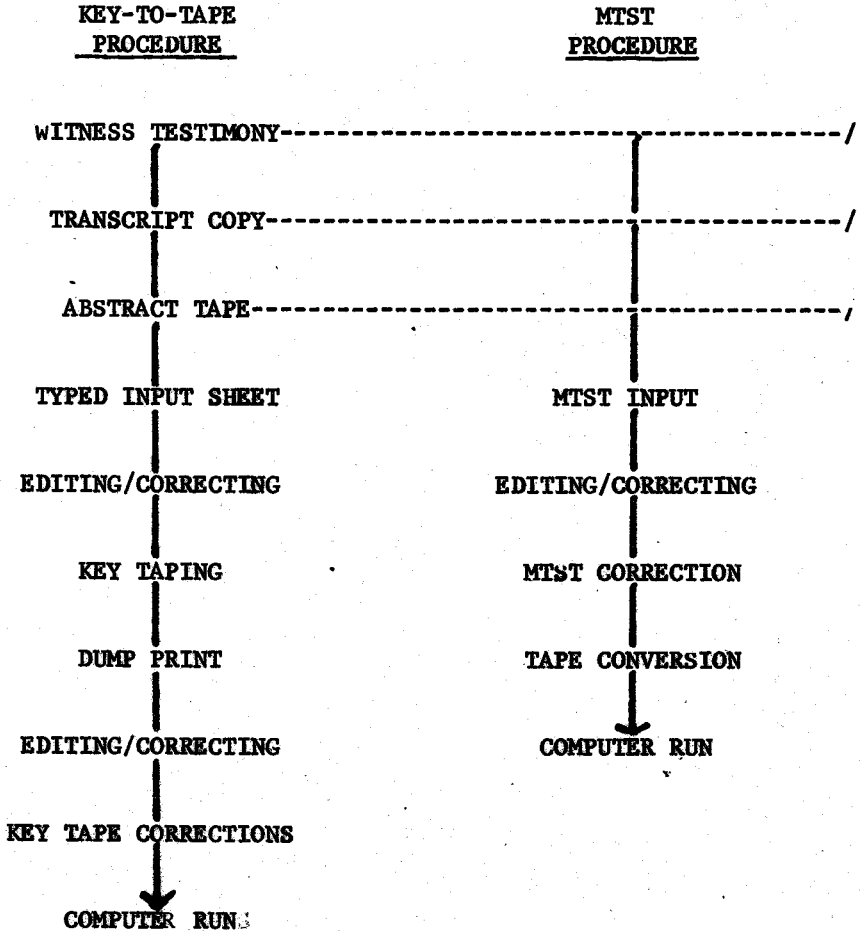
## VI. MICROFILM PROCEDURE

All documentary evidence obtained by the committee and maintained in the security area was microfilmed to allow for greater accessibility of this material to the staff. Because of security procedures all filming and processing of the film was done on the premises of the committee. Two microfilm viewers were installed to allow for immediate viewing and analysis by any staff member.

The computer record format had been adapted to provide for the microfilm number, indicating the role and frame number where the document could be found. It was included in all printouts.

## VII. DISPOSITION

Pursuant to Senate Resolution 369, the Select Committee at the termination of its activities transferred its records, including computer tapes, to the Library of Congress. The Senate Committee on Rules and Administration was empowered to exercise exclusive control of and access to the use of such records. In doing so, the Senate Rules Committee was directed to: "Make parts of such records or certified copies of the same available to courts, the Special Prosecutor, congressional committees and subcommittees, Federal departments or agencies, or individuals satisfying the Senate Committee on Rules and Administration of their legitimate need for parts of such records." Thus the information retrieval system that was responsible for the efficient and effective way in which the Select Committee conducted its investigative and reporting functions was made available to the above mentioned for future application. Moreover, the Senate Committee on Foreign Relations became the first standing committee of Congress to utilize the system in almost the same form used by the Select Committee. It is a fitting commendation for the system that was conceived so rapidly, yet worked so well, that its use be perpetuated by the Congress of the United States.

DATA PROCESSING FLOWHEARINGS/INTERVIEWS





## CHAPTER 11

### Individual Views of Senators of the Select Committee

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MR. SAM J. ERVIN, JR.

U.S. SENATOR FROM THE STATE OF NORTH CAROLINA

Since the Senate Select Committee on Presidential Campaign Activities is filing with the Senate its final report concerning the investigation that body authorized and directed it to make, I deem it appropriate to state as succinctly as possible some of my personal observations respecting the tragic events known collectively as the Watergate, which disgraced the Presidential election of 1972.

In doing this, I ask and endeavor to answer these questions: What was Watergate? Why was Watergate? Is there an antidote which will prevent future Watergates? If so, what is that antidote?

Before attempting to answer these questions, I wish to make these things plain:

1. I am not undertaking to usurp and exercise the power of impeachment, which the Constitution confers upon the House of Representatives alone. As a consequence, nothing I say should be construed as an expression of an opinion in respect to the question of whether or not President Nixon is impeachable in connection with the Watergate or any other matter.

2. Inasmuch as its Committee on the Judiciary is now studying whether or not it ought to recommend to the House the impeachment of the President, I shall also refrain from making any comment on the question of whether or not the President has performed in an acceptable manner his paramount constitutional obligation "to take care that the laws be faithfully executed."

3. Watergate was not invented by enemies of the Nixon administration or even by the news media. On the contrary, Watergate was perpetrated upon America by White House and political aides, whom President Nixon himself had entrusted with the management of his campaign for reelection to the Presidency, a campaign which was divorced to a marked degree from the campaigns of other Republicans who sought election to public office in 1972. I note at this point without elaboration that these White House and political aides were virtually without experience in either Government or politics apart from their association with President Nixon.

4. Life had not subjected these White House and political aides to the disadvantaged conditions which are glibly cited as the causes of wrongdoing. On the contrary, fortune had smiled upon them. They came from substantial homes, possessed extraordinary talents, had

had unusual educational opportunities, and occupied high social positions.

5. Watergate was unprecedented in the political annals of America in respect to the scope and intensity of its unethical and illegal actions. To be sure, there had been previous milder political scandals in American history. That fact does not excuse Watergate. Murder and stealing have occurred in every generation since Earth began, but that fact has not made murder meritorious or larceny legal.

### WHAT WAS WATERGATE?

President Nixon entrusted the management of his campaign for reelection and his campaign finances to the Committee for the Re-Election of the President, which was headed by former Attorney General John N. Mitchell, and the Finance Committee To Re-Elect the President, which was headed by former Secretary of Commerce, Maurice Stans. Since the two committees occupied offices in the same office building in Washington and worked in close conjunction, it seems proper to call them for ease of expression the Nixon reelection committees.

Watergate was a conglomerate of various illegal and unethical activities in which various officers and employees of the Nixon reelection committees and various White House aides of President Nixon participated in varying ways and degrees to accomplish these successive objectives:

1. To destroy, insofar as the Presidential election of 1972 was concerned, the integrity of the process by which the President of the United States is nominated and elected.

2. To hide from law enforcement officers, prosecutors, grand jurors, courts, the news media, and the American people the identities and wrongdoing of those officers and employees of the Nixon reelection committees, and those White House aides who had undertaken to destroy the integrity of the process by which the President of the United States is nominated and elected.

To accomplish the first of these objectives, the participating officers and employees of the reelection committees and the participating White House aides of President Nixon engaged in one or more of these things:

1. They exacted enormous contributions—usually in cash—from corporate executives by impliedly implanting in their minds the impressions that the making of the contributions was necessary to insure that the corporations would receive governmental favors, or avoid governmental disfavor, while President Nixon remained in the White House. A substantial portion of the contributions were made out of corporate funds in violation of a law enacted by Congress a generation ago.

2. They hid substantial parts of these contributions in cash in safes and secret deposits to conceal their sources and the identities of those who had made them.

3. They disbursed substantial portions of these hidden contributions in a surreptitious manner to finance the bugging and the burglary of the offices of the Democratic National Committee in the Watergate complex in Washington for the purpose of obtaining political intelligence; and to sabotage by dirty tricks, espionage, and scurrilous and

false libels and slanders the campaigns and the reputations of honorable men, whose only offenses were that they sought the nomination of the Democratic Party for President and the opportunity to run against President Nixon for that office in the Presidential election of 1972.

4. They deemed the departments and agencies of the Federal Government to be the political playthings of the Nixon administration rather than impartial instruments for serving the people, and undertook to induce them to channel Federal contracts, grants, and loans to areas, groups, or individuals so as to promote the reelection of the President rather than to further the welfare of the people.

5. They branded as enemies of the President individuals and members of the news media who dissented from the President's policies and opposed his reelection, and conspired to urge the Department of Justice, the Federal Bureau of Investigation, the Internal Revenue Service, and the Federal Communications Commission to pervert the use of their legal powers to harass them for so doing.

6. They borrowed from the Central Intelligence Agency disguises which E. Howard Hunt used in political espionage operations, and photographic equipment which White House employees known as the "Plumbers" and their hired confederates used in connection with burglarizing the office of a psychiatrist which they believed contained information concerning Daniel Ellsberg which the White House was anxious to secure.

7. They assigned to E. Howard Hunt, who was at the time a White House consultant occupying an office in the Executive Office Building, the gruesome task of falsifying State Department documents which they contemplated using in their altered state to discredit the Democratic Party by defaming the memory of former President John Fitzgerald Kennedy, who as the hapless victim of an assassin's bullet had been sleeping in the tongueless silence of the dreamless dust for 9 years.

8. They used campaign funds to hire saboteurs to forge and disseminate false and scurrilous libels of honorable men running for the Democratic Presidential nomination in Democratic Party primaries.

During the darkness of the early morning of June 17, 1972, James W. McCord, the security chief of the John Mitchell committee, and four residents of Miami, Fla., were arrested by Washington police while they were burglarizing the offices of the Democratic National Committee in the Watergate complex to obtain political intelligence. At the same time, the four residents of Miami had in their possession more than fifty \$100 bills which were subsequently shown to be a part of campaign contributions made to the Nixon reelection committees.

On September 15, 1972, these five burglars, E. Howard Hunt, and Gordon Liddy, general counsel of the Stans committee, were indicted by the grand jury on charges arising out of the bugging and burglary of the Watergate.

They were placed on trial upon these charges before Judge John Sirica, and a petit jury in the U.S. District Court for the District of Columbia in January 1973. At that time, Hunt and the four residents of Miami pleaded guilty, and McCord and Liddy were found guilty by the petit jury. None of them took the witness stand during the trial.

The arrest of McCord and the four residents of Miami created consternation in the Nixon reelection committees and the White House. Thereupon, various officers and employees of the Nixon reelection

committees and various White House aides undertook to conceal from law-enforcement officers, prosecutors, grand jurors, courts, the news media, and the American people the identities and activities of those officers and employees of the Nixon reelection committees and those White House aides who had participated in any way in the Watergate affair.

Various officers and employees of the Nixon reelection committees and various White House aides engaged in one or more of these acts to make the concealment effective and thus obstruct the due administration of justice:

1. They destroyed the records of the Nixon reelection committees antedating the bugging and the burglary.

2. They induced the Acting Director of the FBI, who was a Nixon appointee, to destroy the State Department documents which E. Howard Hunt had been falsifying.

3. They obtained from the Acting Director of the FBI copies of scores of interviews conducted by FBI agents in connection with their investigation of the bugging and the burglary, and were enabled thereby to coach their confederates to give false and misleading statements to the FBI.

4. They sought to persuade the FBI to refrain from investigating the sources of the campaign funds which were used to finance the bugging and the burglary.

5. They intimidated employees of the Nixon reelection committees and employees of the White House by having their lawyers present when these employees were being questioned by agents of the FBI, and thus deterred these employees from making full disclosures to the FBI.

6. They lied to agents of the FBI, prosecutors, and grand jurors who undertook to investigate the bugging and the burglary, and to Judge Sirica and the petit jurors who tried the seven original Watergate defendants in January 1973.

7. They persuaded the Department of Justice and the prosecutors to take out-of-court statements from Maurice Stans, President Nixon's chief campaign fundraiser, and Charles Colson, Egil Krogh, and David Young, White House aides, and Charles Colson's secretary, instead of requiring them to testify before the grand jury investigating the bugging and the burglary in conformity with the established procedures governing such matters, and thus denied the grand jurors the opportunity to question them.

8. They persuaded the Department of Justice and the prosecutors to refrain from asking Donald Segretti, their chief hired saboteur, any questions involving Herbert W. Kalmbach, the President's personal attorney, who was known by them to have paid Segretti for dirty tricks he perpetrated upon honorable men seeking the Democratic Presidential nomination, and who was subsequently identified before the Senate Select Committee as one who played a major role in the secret delivery of hush money to the seven original Watergate defendants.

9. They made cash payments totaling hundreds of thousands of dollars out of campaign funds in surreptitious ways to the seven original Watergate defendants as hush money to buy their silence and keep them from revealing their knowledge of the identities of

the officers and employees of the Nixon reelection committees and the White House aides who had participated in the Watergate.

10. They gave assurances to some of the original seven defendants that they would receive Presidential clemency after serving short portions of their sentences if they refrained from divulging the identities and activities of the officers and employees of the Nixon reelection committees and the White House aides who had participated in the Watergate affair.

11. They made arrangements by which the attorneys who represented the seven original Watergate defendants received their fees in cash from moneys which had been collected to finance President Nixon's reelection campaign.

12. They induced the Department of Justice and the prosecutors of the seven original Watergate defendants to assure the news media and the general public that there was no evidence that any persons other than the seven original Watergate defendants were implicated in any way in any Watergate-related crimes.

13. They inspired massive efforts on the part of segments of the news media friendly to the administration to persuade the American people that most of the members of the Select Committee named by the Senate to investigate the Watergate were biased and irresponsible men motivated solely by desires to exploit the matters they investigated for personal or partisan advantage, and that the allegations in the press that Presidential aides had been involved in the Watergate were venomous machinations of a hostile and unreliable press bent on destroying the country's confidence in a great and good President.

One shudders to think that the Watergate conspiracies might have been effectively concealed and their most dramatic episode might have been dismissed as a "third-rate" burglary conceived and committed solely by the seven original Watergate defendants had it not been for the courage and penetrating understanding of Judge Sirica, the thoroughness of the investigative reporting of Carl Bernstein, Bob Woodward, and other representatives of a free press, the labors of the Senate Select Committee and its excellent staff, and the dedication and diligence of Special Prosecutors Archibald Cox and Leon Jaworski and their associates.

### WHY WAS WATERGATE?

Unlike the men who were responsible for Teapot Dome, the Presidential aides who perpetrated Watergate were not seduced by the love of money, which is sometimes thought to be the root of all evil. On the contrary, they were instigated by a lust for political power, which is at least as corrupting as political power itself.

They gave their allegiance to the President and his policies. They had stood for a time near to him, and had been entrusted by him with great governmental and political power. They enjoyed exercising such power, and longed for its continuance.

They knew that the power they enjoyed would be lost and the policies to which they adhered would be frustrated if the President should be defeated.

As a consequence of these things, they believed the President's reelection to be a most worthy objective, and succumbed to an age-old temptation. They resorted to evil means to promote what they conceived to be a good end.

Their lust for political power blinded them to ethical considerations and legal requirements; to Aristotle's aphorism that the good of man must be the end of politics; and to Grover Cleveland's conviction that a public office is a public trust.

They had forgotten, if they ever knew, that the Constitution is designed to be a law for rulers and people alike at all times and under all circumstances; and that no doctrine involving more pernicious consequences to the commonweal has ever been invented by the wit of man than the notion that any of its provisions can be suspended by the President for any reason whatsoever.

On the contrary, they apparently believed that the President is above the Constitution, and has the autocratic power to suspend its provisions if he decides in his own unreviewable judgment that his action in so doing promotes his own political interests or the welfare of the Nation. As one of them testified before the Senate Select Committee, they believed that the President has the autocratic power to suspend the fourth amendment whenever he imagines that some indefinable aspect of national security is involved.

I digress to reject this doctrine of the constitutional omnipotence of the President. As long as I have a mind to think, a tongue to speak, and a heart to love my country, I shall deny that the Constitution confers any autocratic power on the President, or authorizes him to convert George Washington's America into Gaius Caesar's Rome.

The lust for political power of the Presidential aides who perpetrated Watergate on America blinded them to the laws of God as well as to the laws and ethics of man.

As a consequence, they violated the spiritual law which forbids men to do evil even when they think good will result from it, and ignored these warnings of the King James version of the Bible:

There is nothing covered, that shall not be revealed;  
neither hid, that shall not be known.

Be not deceived; God is not mocked: For whatsoever a man soweth, that shall he also reap.

I find corroboration for my conclusion that lust for political power produced Watergate in words uttered by the most eloquent and learned of all the Romans, Marcus Tullius Cicero, about 2100 years ago. He said:

Most men, however, are inclined to forget justice altogether, when once the craving for military power or political honors and glory has taken possession of them. Remember the saying of Ennius, "When crowns are at stake, no friendship is sacred, no faith shall be kept."

As one after another of the individuals who participated in Watergate goes to prison, we see in action an inexorable spiritual law which Rudyard Kipling phrased in this fashion in his poem about Tomlinson's Ghost:

"For the sin ye do by two and two,  
You must pay for one by one."

As we contemplate the motives that inspired their misdeeds, we acquire a new awareness of the significance of Cardinal Wolsey's poignant lament:

"Had I but serv'd my God with half  
 The zeal I serv'd my King,  
 He would not in mine age have left me  
 Naked to mine enemies."

#### THE ANTIDOTE FOR FUTURE WATERGATES

Is there an antidote which will prevent future Watergates? If so, what is it?

The Senate Select Committee is recommending the enactment of new laws which it believes will minimize the danger of future Watergates and make more adequate and certain the punishment of those who attempt to perpetrate them upon our country.

Candor compels the confession, however, that law alone will not suffice to prevent future Watergates. In saying this, I do not disparage the essential role which law plays in the life of our Nation. As one who has labored as a practicing lawyer, a judge, and a legislator all of my adult years, I venerate the law as an instrument of service to society. At the same time, however, I know the weakness of the law as well as its strength.

Law is not self-executing. Unfortunately, at times its execution rests in the hands of those who are faithless to it. And even when its enforcement is committed to those who revere it, law merely deters some human beings from offending, and punishes other human beings for offending. It does not make men good. This task can be performed only by ethics or religion or morality.

Since politics is the art or science of government, no man is fit to participate in politics or to seek or hold public office unless he has two characteristics.

The first of these characteristics is that he must understand and be dedicated to the true purpose of government, which is to promote the good of the people, and entertain the abiding conviction that a public office is a public trust, which must never be abused to secure private advantage.

The second characteristic is that he must possess that intellectual and moral integrity, which is the priceless ingredient in good character.

When all is said, the only sure antidote for future Watergates is understanding of fundamental principles and intellectual and moral integrity in the men and women who achieve or are entrusted with governmental or political power.

Josiah Gilbert Holland, a poet of a bygone generation, recognized this truth in a poem which he called "The Day's Demand", and which I like to call "America's Prayer". I quote his words:

"God give us men! A time like this demands  
 Strong minds, great hearts, true faith and ready hands;  
 Men whom the lust of office does not kill;  
 Men whom the spoils of office cannot buy;  
 Men who possess opinions and a will;  
 Men who have honor—men who will not lie;  
 Men who can stand before a demagogue  
 And damn his treacherous flatteries without winking;  
 Tall men, sun-crowned, who live above the fog  
 In public duty, and in private thinking."





## MR. HOWARD H. BAKER, JR.

### U.S. SENATOR FROM THE STATE OF TENNESSEE

I believe that the activities and inquiry of the Senate Select Committee on Presidential Campaign Activities have been, by and large, useful and appropriate. The bipartisan tone for the committee was established by the unanimous adoption of Senate Resolution 60 by the vote of 77 to 0 on February 7, 1973. I think, with some exceptions that bipartisan attitude was preserved throughout the long and tedious proceedings. From time to time, there occurred conflicts and disagreements in the committee, and between the respective staffs, but they usually were resolved. The final act of the Select Committee is to file its report; and I am pleased. It is not a perfect report. Some may say that it is without grace or style, and that is probably true; but it is the culmination of an extraordinary effort, and I am particularly gratified that the majority and minority staffs cooperated carefully in comparing their respective views and adjusting the text so that in most instances a satisfactory joint staff position was submitted to the committee for adoption. The report is not adjudicatory, and indeed it often goes to some lengths to avoid "finding fact" in the traditional sense. This requirement was directed to the committee staff by the chairman in deference, I believe, to the sensitivity of litigation in process, or upcoming, and of course to the inquiry into impeachment by the House of Representatives. I commend the chairman for that point of view.

In an historical perspective, I believe that the committee's principal service may have been in the public ventilation of the facts and circumstances collectively assembled under the title of Watergate. The committee's gathering and disseminating the often shocking, frequently embarrassing, and sometimes incriminating evidence and testimony before it certainly should exert a deterrent effect; and that effect may be far more important than the committee's recommendations. I rather suspect that it may be a long while before a future President permits the occurrence of such unfortunate circumstances. If that is the case, then the committee's laborious effort, the considerable expense, and the national frustration will have been worth the investment.

I hope so.

#### RECOMMENDATIONS

#### **I. Establishment of an Office of Public Prosecutor within the Department of Justice, appointed by the President for a fixed term and subject to Senate confirmation.**

The committee report recommends the creation of a judicially appointed permanent Public Attorney to investigate and prosecute cases in which there are conflicts of interest within the executive branch. This recommendation and my own evidence recognition that

the Federal Government is poorly equipped for investigating and prosecuting crimes allegedly committed by high-ranking executive branch officials. Prior to the appointment of the Watergate Special Prosecutor, there did not exist within the Department of Justice a division solely and specifically entrusted with the authority to investigate allegations of official misconduct, cloaked with the requisite independence and statutory authority necessary for unimpeded access to Government officials and documents, and I believe the investigation would have proceeded more rapidly and effectively had such an arrangement existed.

Consequently, I agree in principle with the committee report's recommending the establishment of a permanent Public Prosecutor, possessing a statutory mandate to investigate and prosecute allegations of governmental misconduct. I have great doubts, however, regarding the constitutionality of the committee's proposal that the Public Attorney be appointed by the representatives of the Judiciary.

The appointment of a permanent Public Prosecutor, within the Department of Justice, for a fixed 6-year term as nominated by the President and subject to Senate confirmation possesses none of the potential constitutional infirmities presented by a judicially appointed Public Prosecutor, as were discussed in the Senate debate this past fall on the Hart-Bayh Special Prosecutor bill.

Senator Percy and I, together with Senators Brock, Cook, and Young, introduced S. 2734 on November 20, 1973, that provided for the Presidential appointment of a Special Watergate Prosecutor, subject to confirmation by the Senate.

Senator Ervin on June 17, 1974, introduced S. 3652, providing for Presidential appointment of a permanent Public Prosecutor with Senate confirmation and a fixed term of 6 years. I believe both of these proposals avoid the constitutional pitfalls of the committee's recommendation and are attractive alternatives.

## **II. Establishment within the Congress of a Joint Intelligence Oversight Committee so as to provide for increased congressional monitoring of governmental intelligence-gathering activities.**

Both in the committee report and in other committee documents, there is found a substantial body of evidence regarding the activities of the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, and other governmental intelligence-gathering and/or investigative organizations, which provides insight into the activities, as well as the abuses, of these organizations relative to the matters under the Select Committee's perusal. Testimony was presented to the committee to the effect that there was an attempt by high-ranking White House officials to somehow "involve" the CIA in the Watergate coverup; that the FBI investigation of the Watergate matter was impeded at the very highest levels of the Bureau itself; and that under the supervision of the White House, intelligence-gathering operations, including unlawful activity, were conducted outside the purview of the congressionally authorized intelligence and investigative agencies. Moreover, as indicated in separate committee documents, the CIA provided extensive logistical support to the participants in both the Fielding and Democratic National Com-

mittee break-ins and expressed a keen interest in the subsequent investigations.\*

The intelligence-related material before the committee is not conclusive. It does not answer the question of what the President or other individuals knew or when they knew it, nor does it explain why the Democratic National Committee headquarters twice was the target of an illegal entry. It seems apparent, however, that congressional committee oversight did not function effectively as a deterrent to those who may have sought to utilize governmental intelligence and investigative agencies for unlawful or unauthorized purposes.

Thus, because of the cost, the secrecy, the lack of effective supervision, the uncertainty of domestic activities, and the extreme difficulty in obtaining access to classified materials, I am of the opinion that the subject of Government intelligence operations requires extensive further examination. I wish to associate myself with the recommendation in the committee report for closer supervision of Central Intelligence Agency activities by the appropriate congressional oversight committees.

I would go one step further and propose that the Congress should consider the creation of a Special Joint Committee on Intelligence Activities. I believe the highly sensitive nature of intelligence operations, the expanding scope of the intelligence gathering requirement, and the enormous cost and dedication of manpower and resources to the intelligence undertaking in the United States, fully justifies a new committee arrangement. Such a committee, not dissimilar to the Joint Committee on Atomic Energy, could more effectively coordinate among the various intelligence investigative agencies, now subject to congressional oversight, than can the several committees now having partial oversight responsibilities. Thus, I believe that a joint committee would present no legitimate threat to the intelligence community in terms of jeopardizing or compromising their necessary intelligence operations, and would provide greater assurance that our intelligence gathering and investigative agencies are complying with the law and are working in the best interest of the Nation.

### **III. Reformation of congressional investigatory hearing procedures so as to provide increased protection for the rights of individuals.**

Although this recommendation does not clearly fall within the province of S. Res. 60, the Select Committee hearings highlighted the fact that congressional investigatory proceedings exhibit a determination to ferret out the facts even if the investigative process may grievously injure the protected rights of individuals who are or may become defendants in judicial proceedings. Thus, I believe that Congress should give careful attention to the codification of rules of legislative hearing procedure so as to provide the same assurance that individual constitutional rights are not impaired by legislative hearings as the Federal Rules of Criminal Procedure provide in criminal proceedings. I believe

\*A summary of the results of the investigation undertaken by the minority staff bearing upon the issue of the extent of involvement of the CIA in several respects may be found in a report prepared at my request, which is appended hereto at p. 1115. While the report draws no evidentiary conclusions, it does recommend specific additional inquiries which could be made by existing oversight committees of the Congress or by the joint committee proposed by my recommendation II above.

that such rules should provide a mechanism whereby witnesses and proposed witnesses before legislative hearings, who are or may be subject to criminal prosecution, can be identified and afforded additional procedural protections than is now the case. For instance, a "vulnerable" witness might be given the right to have counsel participate in the questioning of other witnesses presenting testimony adverse to the interests of the vulnerable witness. In addition, the Congress should study the advisability of imposing common law and/or Federal evidentiary rules in certain types, if not all, legislative hearings. Finally, the Congress may wish to establish a Legislative Public Defender whose duty would be to proctor legislative hearings and investigations so as to provide for the protection of the rights of individuals.

As exemplified by the history of the Select Committee, the investigatory power of a congressional committee is extremely broad and pervasive, and, in actuality, is restricted only by the wording of the resolution or other legislative vehicle creating the committee and the authority of the committee to investigate such matters. While litigation and congressional discretion have provided some due process limitations upon congressional investigations, a congressional committee is not a jury nor a court; and common law and statutory evidentiary rules are not applicable to committee investigations. The most obvious example is hearsay testimony, which is recited throughout the committee report. Moreover, through its contempt power, "use" immunity, and public pressure, a congressional committee can in many cases indirectly overcome an individual's privilege against self-incrimination in a manner which could never occur in a court of law. As mentioned above, individuals whose conduct is being investigated, often are not afforded the opportunity to have counsel "cross examine" witnesses presenting testimony detrimental to them. Thus, while I will protect jealously the privilege and the right of congressional committees to conduct inquiries concerning the administration of existing laws, as well as new statutes, I believe that legislation conveying the recognition of the need to protect the rights of potential defendants, the sanctity of criminal trials and the impartiality of the impeachment process can be effected without constituting a detriment to a legislative committee's fact-finding power.

#### **IV. Campaign and electoral reforms.**

Among the several inadequacies in our political process highlighted by Watergate, none is more glaring than the need for comprehensive campaign and electoral reform. The types of campaign abuses prevalent during the 1972 campaigns, though shocking in terms of their scope, were by no means unprecedented. The fact of the matter is, and has been, that political campaigns take place in a legal vacuum. With the possible exception of the Federal Elections Campaign Act of 1971, there has been no significant attempt by Congress to regulate political campaigns since the Corrupt Practices Act of 1925; and even that was "more loophole than law." Thus, it is not surprising that campaigns have taken on the appearance of a political free-for-all in which the distinction between illegal, unethical, and immoral conduct is generally obscured.

The fallout from that atmosphere is cumulative and has resulted in a devastating erosion of public trust and confidence in the process by which public officials are elected. Moreover, if the country is to benefit from the experience of the past 2 years, it is essential that the Congress undertake fundamental reform of the electoral process—reform which includes not only campaign finance, but also various aspects of the actual election process.

The type of reform most vital, and about which the Select Committee assembled a wealth of data, was campaign finance. From a financial standpoint, the 1972 campaign for President was no different from past campaigns in that there was no effective regulation of the source, form or amount of political contributions. Although the Federal Elections Campaign Act of 1971 required more complete disclosure of contributions, the 1972 campaign was still largely funded through a system of unrestricted, large sum private financing. It was this system that permitted one individual to give \$2 million while over 200 million people did not contribute. This system gave rise to the allegations that the milk producers received an increase in the support price of milk in return for the pledge of large contributions. It was this system which permitted individuals to launder cash through Mexico in an effort to suppress the identity of the source. And finally, it was this system which permitted the accumulation of \$350,000 in a White House safe, none of which was reported and most of which purportedly was disbursed for political espionage and alleged hush money. Consequently, it is not surprising that considerable support has developed within the country and the Congress for complete abandonment of this system in favor of substantial public financing. I can sympathize with that view, for public financing certainly appears pure and absolute; but it is not the answer.

Although public financing probably would solve a limited number of problems afflicting the present process, it would almost certainly create an equal number of potentially greater dangers. Some of those would stem, no doubt, from the incestuous nature of the Government's financing the process by which it is selected. The Responsiveness portion of the Select Committee's report details the repeated efforts of members of the administration to influence or abuse the various departments and agencies for purely political purposes. Would it not be possible under a system of public financing, in which an arm of the Government was responsible for allocating funds, to abuse that authority on behalf of one candidate or party under the guise of bureaucratic red tape? Some would argue that it is overly cynical to make such an assumption, but perhaps it would have been cynical a few years ago to assume that an administration would try to actively utilize its broad powers to punish political adversaries. We can ill afford to overlook the possibility of such an incident in the public financing sector 10 or 20 years from now.

Another serious problem with comprehensive public financing, in my judgment, is the effect it will have upon the individual's first amendment right of freedom of political expression. I believe that right gives each citizen the right of expressing himself politically, whether by contribution, or otherwise, or conversely, refraining from such expression; and in a Nation which prides itself on protecting in-

dividual rights, the option to refrain from exercising that right must be considered as vital as the right itself. I, therefore, urge that it is essential to maintain participation in our political process on a voluntary basis, while attempting to increase the opportunities and incentives to participate.

Public financing, however, provides no such choice. Rather, it states that the need to eliminate the influence of large sum contributors and special interests is so compelling that we must abandon the use of all voluntary private financing in favor of mandatory, public financing; and in the case of the latter, we have no control over which candidate receives our tax dollars, nor whether they are actually used for that purpose. In fact, taxpayers would be directly supporting candidates whom they consider repugnant.

If it were merely a question of unrestricted, private financing, or comprehensive public financing, then I would support the latter. But, there is a third, more reasonable option which would retain some continuity while avoiding some of the hazards of public financing. That option is a system of effectively regulated private financing in which the incentives for small contributions are vastly enhanced. Such a system is in essence what the Select Committee recommends. A strict limitation on the size, amount, and form of private contributions, a single campaign committee, a single campaign depository, an overall expenditure limitation, a requirement for full public disclosure before, rather than after the election, and an independent elections commission, are all necessary reforms which would impose order upon the current campaign chaos. Moreover, I would make one further recommendation which would do more to eliminate distortive influence of special interests than any other single action, and that is, to prohibit, altogether, contributions from any and all organizations. Only individuals can vote, and I believe only individuals should be permitted to contribute.

Some have argued, however, that if we eliminate the financial influence of the special interests and strictly limit the size of individual contributions, we cannot effectively fund a competitive two-party system. Indeed, without some new incentives for millions of Americans to make small contributions, such a system would clearly discourage constructive opposition and tend to bolster the inherent advantages of incumbency. Thus, I would propose a 100 percent tax credit on all contributions made in a calendar year up to \$50 on an individual return and \$100 on a joint return. Such a credit would enable each taxpayer to divert up to \$50 of his tax money to a candidate or candidates if, and only if, he desires to do so. This approach would be entirely voluntary, thereby protecting the individual's freedom of political expression. Moreover, it would generate sufficient funds so that we might avoid having to resort to the direct appropriation of tax moneys for political purposes. A realistic and effective tax incentive, combined with the aforementioned list of statutory reforms, would afford a fair and competitive means of funding political campaigns.

I am convinced further that we cannot hope to reverse the current trend of erosion of public trust and confidence without sharply increasing public participation in the political process. In that regard, I would urge that serious consideration be given automatic registration of voters in Federal elections at age 18. The history of the United

States has been a history of the extension of the voting franchise. Yet, even today, a significant number of our citizens are effectively prevented from participating in elections by complex, and often archaic, registration and residency requirements. The postcard voter registration bill passed by the Senate last year was an effort to deal with this problem, but I opposed it because of my concern for the potential for mail fraud and abuse of such a system.

Several Western nations have already successfully implemented a form of automatic voter registration. In the Scandinavian countries, for example, and in Switzerland, every eligible citizen is registered ex officio in a voting register. A list of voters is published by the elections authorities in advance of the election date. Any citizen whose name has not been included in the list then has until approximately a week before the election to correct the situation. In the United States, however, citizens still must contend with what amounts to a perpetual registration process. I fully realize that some difficulties will arise in translating automatic registration to the realities of the American experience and attempting to reconcile it with State registration procedures. Perhaps social security numbers could be utilized to standardize this procedure, since more than 95 percent of eligible voters are already registered with social security. In any event, the concept deserves consideration, in my view; and, if workable, it could provide a valuable incentive to increase citizen participation.

I would also urge major reform of our present spasmodic system of Presidential primaries. There are essentially three alternatives in this regard: a refinement of the present system requiring the 25 States who hold Presidential primaries to do so on four or five specific dates at 2 or 3 week intervals; a single national primary for each party with a subsequent runoff unless one candidate polls more than 40 percent; and a system of regional primaries also held at specific intervals, but encompassing all of the country.

Of these three proposals, I am most inclined to support the one for a system of regional primaries in which every eligible voter who desires to participate in the selection of a party nominee can do so by voting in the regional primary which includes his State. This would permit the millions of Americans who support candidates who will not receive the party nomination to express that support in a meaningful way. It would also give them a personal stake in the election and increase the likelihood of their participation in the subsequent general election campaign. Specifically, I would propose dividing the country into four geographic regions, largely along the lines of time zones so as to avoid holding a Southern or a New England primary with a distinct ideological slant. I would make those regions of roughly equal population and would hold the four primaries at 3-week intervals beginning in early June and ending in early August. The respective primary candidates would compete for State delegates who would be won according to the proportion of vote received in each State, rather than on a winner-take-all basis. Although I am aware of the high cost involved in running regional primaries, the basic idea is to vastly expand the public participation in the nominating process and to significantly reduce the official length of Presidential campaigns.

As it is now, the first Presidential primary normally takes place in early March with the general election 8 months later, in November.



But, as I see it, there is absolutely no reason why that process must take that long. It exhausts the candidates, costs exorbitant sums of money, and eventually bores a great many people. I would propose that all primaries for Federal office be held no earlier than the first of June and no later than the 15th of August. This would significantly shorten the official length of campaigns for Federal office and permit the Congress to work at relatively full strength for 4 months before most Members are forced to return to their States or districts to campaign full-time for the nomination.

I also recommend that we open and close polls all across the country at a uniform time and that they be opened a full 24 hours. The arguments for this are simple and well known; but briefly stated, this is the best way I know of to prevent the harmful effects of broadcast networks projecting the outcome of elections, based on very early returns, when polls in the Western States are still open. Moreover, 24 hours would maximize the individual's opportunity to vote before, after or during work.

I further recommend that the Presidential electoral system be made more responsive and representative by the abolition of the electoral college, that 18th century vestigial remnant of constitutional compromise. I personally favor and have always supported the direct election of the President by popular vote, but having unsuccessfully urged that move, I am willing to settle for an improvement if not a cure for this situation. I propose that Congress and the States fully debate the merits of popular vote, congressional district vote, proportional allocation of electoral votes by States according to the popular vote, or any other electoral process calculated to eliminate what I view as the two most onerous elements of the present system. That is to say, one, the winner-take-all by State process, which created and perpetuated the one-party South for a century after the Civil War, and, second, the possibility of the selection of the President by the House of Representatives, which constitutes the most undemocratic of all of the allocation systems. Some say that the reform of the electoral college is not related to the mandate of Senate Resolution 60, but I disagree; I think that the sensitivity of the electoral system, the coherence of the selection process, the vitality of the two-party system, and the integrity of financial support are essential to the political prosperity of the country and are paramount in their importance to every other democratic consideration.

## **V. The institution of the Presidency.**

I believe there exists a fundamental infirmity in the relationship of the Chief Magistrate of the Nation to the two other coordinate branches of Government. This development is not of recent origin—it has matured steadily since at least the beginning of the 20th century and at an accelerated pace since the great depression of the 1930's. The Presidency has become splendid, and it has become increasingly isolated. Surrounded by the trappings of privilege and the sanctuary of security, both national and personal, the Presidency is indeed the most equal of all the equal branches. Its jurisdiction and the scope and sweep of its powers are enormous and broad. While it may be that gradually grafting onto the Presidency of additional powers and authorities is a natural development in the evolution of our democracy,

there are certain elements of what has come to be known as a "strong" Presidency that I do not believe to be desirable.

In recent years, the President's personal staff has served as his council of advisers, and in some instances, the primary delegates of Presidential authority. This is counter to the historical concept of the Cabinet system where the President's Cabinet served as his principal advisers, in addition to being the administrators of the several departments of the Government. By way of example, under article 2, section 2, the President is empowered constitutionally to require the written opinion of the principal officer in the executive departments. I think that the original Cabinet system is preferable to a plethora of Presidential counselors, White House counselors, special advisers and the like. The cross-pollination that occurs in councils of individuals operating from independent bases of jurisdictional authority is distinctly preferable to the highly structured, closely supervised personal staff. Strong persons in strong positions are a significant force for good or evil; and I believe that the opportunity for good is greatly expanded and the possibility of a "Yes" man syndrome is greatly diminished in the Cabinet situation.

The underutilization of the resources and personnel of the Department of Justice and almost complete reliance upon the White House legal staff is another recent development which I consider to be unfortunate. I believe it essential that there be one arm of the executive branch that is the primary legal authority and which is responsible for providing the entire administration, including the President, with objective legal advice. I propose that the Office of Legal Counsel in the Department of Justice be formally charged with the responsibility to serve as legal counsel to the President.

I have come to believe, notwithstanding my earlier support for the ratification of the 22d amendment, that we made a mistake in limiting a President to two terms and that the 22d amendment should be repealed. I believe that the discipline of standing for reelection, or at least contemplating the possibility of standing for reelection, is a desirable one and that the nature of the Presidency is materially altered by the constitutional limitation of two terms. I think the incumbency factor which is much vaunted and highly prized by political observers is overstated in the first instance, but that it would be diminished by the repeal of the 22d amendment. After all, incumbency is less regal if one must at least consider the possibility of standing for reelection 4 years hence. In short, the atmosphere engendered by the removal of political pressures from a President who has been reelected to his second term presents, in my opinion, far greater potential for abuse of power than a situation in which an incumbent President always is presented with the opportunity to seek reelection.

As for most public issues, we have spawned our share of clichés and one of the favorites describes the Chief Magistrate as an "Imperial President"—implying isolation, arrogance, and nonresponsiveness. While I may not subscribe to all the elements of that characterization, I do feel that separation of powers has become more than a constitutional doctrine, it has become a geographic fact. Although the nature of the Presidency certainly is influenced by the individual occupant, interaction between the executive and the legislative departments and with the public is not only desirable but essential. I have often pro-

posed that the President should maintain an office in the Capitol and that the President, or at least some of his principal staff should occupy that office from time to time and be available to legislators on matters of mutual interest.

Certainly the single most notable evidentiary achievement of the Select Committee was the revelation by Alexander Butterfield of the tape-recording system utilized in Presidential offices in both the White House and the Executive Office Building. I am not sure I understand why the tape recording facilities were installed, but I find the practice objectionable and not in keeping with the grandeur of the Presidency. I rather suspect that recent experiences will mitigate against that practice in the future. In any event, I believe that Congress should consider carefully a prohibition of the electronic recording of conversations occurring both in rooms and on telephones, except with the express prior consent of all the participants to the conversation, or unless carefully supervised by a court of competent jurisdiction for specified statutory purposes.

## **VI. Increased national party committee role in Federal elections.**

Finally, I believe Watergate might never have occurred had there been more politics instead of less in the White House. Politics is an honorable profession. It is probably a free citizen's highest secular calling. The Republic could not function without the dedication of millions of citizen politicians; and, consequently, I hope that politics as an honorable undertaking is not a casualty of Watergate. I urge that our young people, who are easily the best educated, most aware, and the most participatory of any generation, involve themselves in the politics of the Nation.

The two-party system must flourish as a system of two broad based national parties, each able to accommodate the wide variety of viewpoints and ideas and to synthesize the majority view on any given election day. I think Presidential and Vice Presidential campaigns in particular ought to be the responsibility of the national party structure and not temporary, collateral organizations such as the Committee To Re-Elect the President. I take great pride in noting after these extended hearings that neither the Republican National Committee nor the Democratic National Committee were involved in campaign illegalities in any way, nor were their chairmen or principal officers. Both our parties are great parties, and they are essential to the functioning of the country.

## APPENDIX TO VIEWS OF SENATOR BAKER\*

SUMMARY OF HIGHLIGHTS OF INVESTIGATION OF CIA ACTIVITY  
IN WATERGATE INCIDENTINTRODUCTION

This report is submitted at Senator Baker's request to summarize the highlights of an investigation of CIA activity, if any, in connection with the Watergate incident and aftermath. It is based on material in the possession of the Committee, both classified and unclassified. It does not attempt to deal with all the matters deemed pertinent and important to a full and complete inquiry, but is designed to generally describe the areas of interest and concern pursued during the staff investigation and executive session interviews since the conclusion of the Committee's public hearings.

In view of the fact that the Committee has chosen to have no further public hearings; that the Committee staff is in the process of being reduced in size; that further cooperation by the Agency seems more likely on the request of the standing jurisdictional committees rather than on the request of the Watergate Committee, and that the total burden of additional work to complete the investigation thoroughly is probably beyond the competence of the remaining staff in terms of numbers and time, Senator Baker requested that this memorandum be prepared for submission to the full Committee for further disposition as the Committee may determine. It is pointed out that, while the report itself is not classified, it makes reference to, and in some instances quotes from, material which is classified. Therefore, each copy of this report has been treated for security purposes as if it were classified. They are numbered and accounted for as in the case of classified material.

The report is broken down into seven categories, tabbed as follows:

(1) Background

A recitation of the first references to CIA connections on the part of the Watergate burglars, reference to the possibility of CIA involvement by the President in his speech of May 22, 1973, and certain other published information and correspondence.

\*Referenced at page 1107.

(2) Mullen

The fact that the Mullen Company and its president, Bob Bennett, had an established relationship with the CIA is described in some detail in this section of the report. Most of the information contained in this section was discovered after Volume IV was requested by Senator Baker. The CIA arranged to release this volume and subsequent documents to the Watergate Committee in the custody of George Murphy serving as security officer for the Committee through an arrangement with the Joint Committee on Atomic Energy.

(3) Pennington

This section derives from a CIA supplied memorandum dated February 22, 1974, from the then Director of Security, detailing the information that Lee R. Pennington, a CIA operative, had entered James McCord's house and/or office shortly after the Watergate breakin for the purpose of destroying evidence of a CIA connection with McCord.

(4) Tapes

This section derives from information supplied to Senator Baker by Director Colby that there was a central taping capability at the CIA; that the tapes had been destroyed, and the possibility that some of the tapes may have been Watergate related. Director Colby stated that he did not know whether Watergate related tapes had been destroyed.

(5) TSD

The initials stand for Technical Services Division of the Central Intelligence Agency, and the section deals with rather extensive contacts between Hunt and the Agency and the support supplied by the Agency to Hunt and Liddy, which was used in a wide variety of undertakings. A number of factual discrepancies appear in this section which cannot be effectively reconciled on the basis of the information we now possess--such as Hunt's receipt of certain Agency technical assistance and contemporaneous participation in the preparation of the Ellsberg psychiatric profile.

(6) Martinez

This tab refers to Eugenio Martinez, one of the Watergate burglars. The section delineates the Martinez-Agency relationship, Hunt's early activities in Miami, the actions taken or not taken by the Agency's office in Miami, and certain unresolved questions.

(7) Recommendations

The seventh tab is self-explanatory and constitutes the recommendations of the staff for further inquiry.

BACKGROUND

In a speech on May 22, 1973, President Nixon stated in part the following in connection with the Watergate matter:

Within a few days, however, I was advised that there was a possibility of CIA involvement in some way.

It did seem to me possible that, because of the involvement of former CIA personnel, and because of some of their apparent associations, the investigation could lead to the uncovering of covert CIA operations totally unrelated to the Watergate break-in.

In addition, by this time, the name of Mr. Hunt had surfaced in connection with Watergate, and I was alerted to the fact that he had previously been a member of the special investigations unit in the White House. Therefore, I was also concerned that the Watergate investigation might well lead to an inquiry into the activities of the special investigations unit itself.

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I also had to be deeply concerned with insuring that neither the covert operations of the CIA nor the operations of the special investigations unit should be compromised. Therefore, I instructed Mr. Haldeman and Mr. Ehrlichman to insure that the investigation of the break-in not expose either an unrelated covert operation of the CIA or the activities of the White House investigations unit--and to see that this was personally coordinated between General Walters, the Deputy Director of the CIA, and Mr. Gray at the FBI.

One of the matters to which the President was evidently referring was explored by Senator Baker in his questioning of John Ehrlichman when Ehrlichman appeared before the Select Committee on July 26, 1973. Ehrlichman was questioned with regard to missing paragraph five of a memo from Egil Krogh and David Young to John Ehrlichman dated August 11, 1971.<sup>1</sup>

This was the same matter which had been brought to the attention of the Minority staff in July of 1973 which resulted in a briefing of Senator Ervin, Senator Baker, Sam Dash, and Fred Thompson by White House Counsels Fred Buzhardt and Leonard Garment. The subject of that briefing is what is now referred to as the "Admiral Moorer-Yeoman Radford Incident."

With regard to involvement of the CIA in the Watergate affair, it should be noted that since June 17, 1972, there have been numerous newspaper articles pointing out the fact that many of those involved in the Watergate break-in were former CIA employees; that CIA equipment was used by Hunt, and other possible CIA links to Watergate.

In the September 14, 1973, issue of the National Review, Miles Copeland wrote an article entitled "The Unmentionable Uses of a CIA"<sup>2</sup>, suggesting that McCord led the Watergate burglars into a trap.

In the November, 1973, issue of Harper's Magazine, an article entitled "The Cold War Comes Home"<sup>3</sup>, by Andrew St. George, indicated strongly that former CIA Director Helms had prior knowledge of the Watergate break-in. As a result of the St. George allegation, Senator Baker asked Senator Symington and the Senate Armed Services Committee to conduct the inquiry into those allegations. The Senate Armed Services Committee held hearings on this matter and heard testimony from CIA officials that the Agency was not knowledgeable of the Watergate break-in before it occurred; had not led the burglars into a trap; and, that the magazine allegations had no basis in fact.

It would appear that no information relative to this Committee's mandate was developed from the testimony adduced during the hearings before the Senate Armed Services Committee on the St. George matter.

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<sup>1</sup>See Public Testimony of John Ehrlichman dated July 26, 1973, at 2702-2704.

<sup>2</sup>National Review, September 14, 1973, "The Unmentionable Uses of a CIA," at 996.

<sup>3</sup>Harper's Magazine, November, 1973, "The Cold War Comes Home," at 82.



However, in the aftermath of the St. George inquiry, Senator Baker propounded a number of questions to the CIA on November 8, 1973, one of which follows:

7. QUESTION: On or after June 17, 1972, did any of the individuals associated with these break-ins in any way communicate with any individual associated with CIA to discuss the Watergate break-ins or the Ellsberg psychiatrist office break-in, other than Mr. McCord who wrote letters to CIA which are part of the Watergate hearing record?

ANSWER: On 10 July 1972 an officer of a commercial concern communicated to an employee of CIA information which had come to his attention concerning the "Watergate Five." The relationship of this informant and his company to the Agency was and is classified. Since this information was hearsay, contained a repetition of then current published speculation, and indicated that the informant had appeared before the Grand Jury on the matter, no action was taken. The employee's hand-written memorandum for the record on this matter is contained in sensitive material which Agency officers have made available for review, but not retention, by the staffs of the four CIA Subcommittees as well as the staffs of the Senate Select Committee on Presidential Campaign Activities and the Federal Prosecutor. Aside from this, the Agency had no communication of the type referred to in this question.

An examination of the aforementioned "sensitive material"<sup>4</sup> revealed more than was theretofore known about the scope of the CIA's dealings with Robert Bennett and Mullen and Company and led to a further intensification of the staff's investigative efforts in other CIA-related areas.

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<sup>4</sup> This material was produced as a part of Volume IV of the documents furnished to us by the CIA.

ROBERT BENNETT AND THE MULLEN AND COMPANY

The Mullen and Company has maintained a relationship with the Central Intelligence Agency since its incorporation in 1959.<sup>1</sup> It provided cover for an agent in Europe and an agent in the Far East at the time of the Watergate break-in.<sup>2</sup>

Hunt left the CIA in 1970 and joined Mullen and Company with what founder Robert Mullen understood to be Director Helms' blessing.<sup>3</sup> Hunt's covert security clearance was extended by the CIA<sup>4</sup>; he was witting of the Mullen cover<sup>5</sup>; and, on occasion he undertook negotiations with the Agency with respect to that cover--even after becoming employed at the White House (according to Agency records).<sup>6</sup>

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<sup>1</sup>Executive Session Testimony of Robert R. Mullen, February 5, 1974, at 3.

<sup>2</sup>Executive Session Testimony of Robert F. Bennett, February 1, 1974, at 25-26; Executive Session Testimony of [Mullen and Company Case Officer], February 4, 1974, at 5.

<sup>3</sup>CIA Memorandum, undated, Subject: Wrap-Up of Agency's Association with Robert R. Mullen and Company, found at Tab 3 of CIA Supplemental Material, Volume III, at 3; Executive Session Testimony of Robert R. Mullen, supra note 1, at 8; Executive Session Testimony of Robert F. Bennett, supra note 2, at 67.

<sup>4</sup>See Memorandum for Deputy Director for Plans, October 14, 1970; Subject: E. Howard Hunt--Utilization by Central Cover Staff, found at Tab 16, CIA Supplemental Materials, Volume II.

<sup>5</sup>Id.; Executive Session Testimony of Robert R. Mullen, supra note 1, at 9.

<sup>6</sup>Executive Session Testimony of [Former Deputy Director of Plans, hereinafter DDP], February 5, 1974, at 6-10; CIA Memorandum, undated, Subject: Wrap-Up of Agency's Association with Robert R. Mullen and Company, supra note 3, at 2.

Robert Bennett, who is Senator Bennett's son, joined Mullen and Company and became its President in 1971. He was introduced to the Mullen CIA case officer in April of that year. <sup>7</sup> Bennett brought the Hughes Tool account with him to Mullen. <sup>8</sup> CIA records indicate that Agency consideration was given to utilizing Mullen's Hughes relationship for a matter relating to a cover arrangement in [South America], and to garner information on Robert Mahen. <sup>9</sup>

Bennett's accessibility to the CIA has raised questions concerning possible Agency involvement in, or knowledge of, Bennett's activities in regard to Hunt/Liddy, to wit: Bennett suggested and coordinated the DeMott interview regarding Chappaquiddick; <sup>10</sup> Bennett coordinated the release of Dita Beard's statement from Denver, after contacting Beard's attorneys at the suggestion of a Hughes executive; <sup>11</sup> Bennett suggested that Greenspun's safe contained information of interest to both Hughes and the CRP; <sup>12</sup> Bennett asked for and received

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<sup>7</sup>Executive Session Testimony of [Mullen and Company Case Officer], supra note 2, at 12.

<sup>8</sup>Executive Session Testimony of Robert F. Bennett, supra note 2, at 132.

<sup>9</sup>See [Mullen and Company Case Officer] Memorandum for Record, April 30, 1971, Subject: Association of Robert R. Mullen and Company with the Hughes Tool Company. This document is found at Tab 16, Supplemental CIA Material, Volume II.

<sup>10</sup>Executive Session Testimony of E. Howard Hunt, December 18, 1973, at 69-70; Executive Session Testimony of Robert F. Bennett, supra note 2, at 62-65.

<sup>11</sup>Executive Session Testimony of Robert F. Bennett, supra note 2, at 93-94.

<sup>12</sup>Executive Session Testimony of E. Howard Hunt, supra note 10, at 6-8; But see Executive Session Testimony of Robert F. Bennett, supra note 2, at 79-84. Bennett indicates that Hunt suggested Bennett coordination with Hughes.

from Hunt a price estimate for bugging Clifford Irving for Hughes;<sup>13</sup> Bennett coordinated the employment of political spy Tom Gregory by Hunt and discussed with Gregory the latter's refusal to proceed with bugging plans on or about June 16, 1972.<sup>14</sup> Bennett received a scrambler from Hughes personnel for use on Mullen telephones;<sup>15</sup> Bennett and Liddy set up dummy committees as a conduit for Hughes campaign contributions;<sup>16</sup> and Bennett served as the point of contact between Hunt and Liddy during the two weeks following the Watergate break-in.<sup>17</sup> Furthermore, Robert Oliver, Mullen's Washington lobbyist for Hughes Tool, is the father of R. Spencer Oliver, Jr., whose telephone was tapped at the Democratic National Committee. Bennett met with the Olivers after the break-in to discuss the bugging.<sup>18</sup>

The true nature of Bennett's relationship to the CIA was not known to us until late November of 1973 when, at Senator Baker's request, the CIA produced another volume of CIA documents (Volume IV). The following information was adduced from this volume.

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<sup>13</sup>Executive Session Testimony of E. Howard Hunt, supra note 10, at 72-73; Executive Session Testimony of Robert F. Bennett, supra note 2, at 121-124.

<sup>14</sup>Staff Interview of Thomas J. Gregory, September 1, 1973, at 5; Executive Session Testimony of E. Howard Hunt, supra note 10, at 17; Executive Session Testimony of Robert F. Bennett, supra note 2, at 69-75.

<sup>15</sup>Staff Interview of Linda Jones, September 6, 1973, at 3; Executive Session Testimony of Robert F. Bennett, supra note 2 at 140.

<sup>16</sup>Staff Interview of Linda Jones, supra note 15, at 9; See Summarized Highlights of Linda Jones Interview, dated September 10, 1973.

<sup>17</sup>Staff Interview of Linda Jones, supra note 15, at 8; Executive Session Testimony of Robert F. Bennett, supra note 2, at 153-157.

<sup>18</sup>Executive Session Testimony of Robert F. Bennett, supra note 2, at 100-101.

On July 10, 1972, Bennett reported detailed knowledge of the Watergate incident to his CIA case officer. The case officer's report of this meeting was handwritten<sup>19</sup> and carried to Director Helms on or before July 14, 1972, in this form because of the sensitivity of the information.<sup>20</sup> It revealed that Bennett had established a "back door entry" to E. B. Williams, the attorney for the DNC, in order to "kill off" revelations of the Agency's relationship with the Mullen and Company in the course of the DNC lawsuit. He agreed to check with the CIA prior to contacting Williams.<sup>21</sup> Our staff has confirmed that Bennett did funnel information to Williams via attorney Hobart Taylor and that this information was more extensive than the information Bennett had previously provided the Grand Jury.<sup>22</sup> The CIA has acknowledged paying one-half of Bennett's attorney fee for his Grand Jury appearance.<sup>23</sup>

Although Bennett was supplying information to the CIA about many aspects of the Watergate incident and was at that time serving as liaison between Hunt and Liddy, there is no indication that these facts were disclosed to the FBI.

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<sup>19</sup> [Mullen and Company Case Officer] Memorandum for Record, July 10, 1972, Subject: Meeting with Robert Foster Bennett and his comments concerning E. Howard Hunt, Douglas Caddy, and the "Watergate Five" Incident (sic), found in CIA Supplemental Material, Volume IV.

<sup>20</sup> Executive Session Testimony of [Mullen and Company Case Officer], supra note 2, at 20-21, 28-29.

<sup>21</sup> [Mullen and Company Case Officer] Memorandum for Record, supra note 19, at 11-12.

<sup>22</sup> Robert F. Bennett, Memorandum for Record, dated January 18, 1973, at 17; Executive Session Testimony of Robert F. Bennett, supra note 2, at 129. See also Hobart Taylor Interview Report, dated February 11, 1974.

<sup>23</sup> CIA Memorandum, undated, Subject: Wrap-Up of Agency's Association with Robert R. Mullen and Company, supra note 3, at 5.

The aforementioned July 10 report contains mysterious reference to a "WH flap"<sup>24</sup>. The report states that if the Mullen cover is terminated, the Watergate could not be used as an excuse. It suggests that the Agency might have to level with Mullen about the "WH flap."<sup>26</sup> Nonetheless, a July 24, 1972 contact report shows that the CIA convinced Robert Mullen of the need to withdraw its Far East cover through an "agreed upon scenario" which included a falsified Watergate publicity crisis.<sup>27</sup> The Agency advises that the "WH flap" has reference to a [deletion at Agency request] that threatened to compromise Western Hemisphere operations,<sup>28</sup> but has not explained sufficient reason to withhold such information from Mullen nor explained the significance of same to Watergate developments. This Agency explanation is clouded by conflicting evidence. The Assistant Deputy Director of Plans has testified that he is very familiar with the matter and that it had no unique effect on Mullen's cover.<sup>29</sup> The Mullen case officer testified that the flap concerned

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<sup>24</sup> [Mullen and Company Case Officer] Memorandum for Record, supra note 19, at 13-14.

<sup>25</sup> Id. at 12-13.

<sup>26</sup> Id. at 13.

<sup>27</sup> [Mullen and Company Case Officer] Memorandum for Record, July 24, 1972, Subject: Withdrawal [Far East] Cover, found in CIA Supplemental Material, Volume V, at 1-2.

<sup>28</sup> Executive Session Testimony of [DDP], supra note 6, at 39; Executive Session Testimony of [Mullen and Company Case Officer], supra note 2, at 43.

<sup>29</sup> Executive Session Testimony of [Former Assistant Deputy Director of Plans], February 28, 1974, transcript not presently available.

cover.<sup>30</sup> Bennett, who thought the reference concerned a "White House flap," did advise of information received from the European cover that a [compromise] adversely affected a former Mullen cover [deleted at Agency request].<sup>31</sup>

A memorandum drafted by the Chief of the Central Cover Staff, CIA, on March 1, 1973, notes that Bennett felt he could handle the Ervin Committee if the Agency could handle Hunt.<sup>32</sup> Bennett even stated that he had a friend who had intervened with Ervin on the matter.<sup>33</sup> The same memorandum suggests that Bennett took relish in implicating Colson in Hunt's activities in the press while protecting the Agency at the same time.<sup>34</sup> It is further noted that Bennett was feeding stories to Bob Woodward who was "suitably grateful"; that he was making no attribution to Bennett; and that he was protecting Bennett and Mullen and Company.<sup>35</sup>

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<sup>30</sup>Executive Session Testimony of [Mullen and Company Case Officer], supra note 2, at 43.

<sup>31</sup>Executive Session Testimony of Robert F. Bennett, supra note 2, at 17-24.

<sup>32</sup>[ ]Memorandum for Deputy Director for Plans, March 1, 1973, Subject: Current Time Magazine Investigation of Robert R. Mullen & Company Connection with the Watergate Incident, found in CIA Supplemental Material, Volume IV, at 4.

<sup>33</sup>Id.

<sup>34</sup>Id.

<sup>35</sup>Id.

PENNINGTON MATTER

The results of our investigation clearly show that the CIA had in its possession, as early as June of 1972, information that one of their paid operatives, Lee R. Pennington, Jr., had entered the James McCord residence shortly after the Watergate break-in and destroyed documents which might show a link between McCord and the CIA. This information was not made available to this Committee or anyone else outside the CIA until February 22, 1974, when a memorandum by the then Director of Security was furnished to this Committee.<sup>1</sup>

The evidence further shows that in August of 1972, when the FBI made inquiry about a "Pennington," the Agency response was to furnish information about a former employee, [with a similar name], who was obviously not the man the FBI was interested in, and to withhold the name of Lee R. Pennington, Jr.<sup>2</sup>

The Pennington information was known within the CIA at least at a level as high as the Director of Security, according to the [former Chief of the Security Research Staff, hereinafter referred to as Chief, Security Research Staff], by whom Pennington was retained at \$250 per month until December of 1973.<sup>3</sup> In January of this year, [Director of Security] ordered that the Pennington materials be removed from the CIA Watergate files when those files were about to be reviewed by the CIA's Inspector General's office in connection with the CIA furnishing this and other Congressional committees certain information on the

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<sup>1</sup>See "Memorandum for Director of Intelligence," February 22, 1974, Exhibit 1 to the Executive Session Testimony of Lee R. Pennington, February 23, 1974.

<sup>2</sup>Executive Session Testimony of [Personnel Security Officer #1], February 25, 1974 at 11-14, 15, 17-18; Executive Session Testimony of [Assistant Deputy Director of Personnel Security], March 2, 1974 (transcription not presently available.)

<sup>3</sup>Executive Session Testimony of [Chief, Security Research Staff], February 24, 1974, at 25-26; Executive Session Testimony of Lee R. Pennington, *supra* note 1, at 29. (Note: The Chief, Security Research Staff, was the recipient of certain of the McCord letters.)



taping capacity at the CIA<sup>4</sup>. Our information is that, since the revelation of the Pennington matter in February of this year, [Director of Security's] early retirement has been "accepted."<sup>5</sup>

It seems that the Pennington matter was extremely sensitive not only because of the above-mentioned facts, but because Pennington may have been a "domestic agent," possibly in violation of the CIA's charter.<sup>6</sup> The Agency has advised that the Security Research Staff was abolished in August of 1973.<sup>7</sup>

All of the above information was produced by the CIA only as a result of the position taken by a staff employee of the Personnel Security Division, [Personnel Security Officer #1]. Because of the Senator's and the staff's request for documentation and information relating to the destruction of CIA tapes and other matters, Deputy Legislative Counsel prepared a statement for Director Colby's signature on February 19, 1974. In it was the blanket assertion that the CIA had produced all Watergate-related information for this Committee as

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<sup>4</sup>Executive Session Testimony of [Personnel Security Officer #1], supra note 2 at 46-49, 50-51, 52-54, 57-59, 69-72.

<sup>5</sup>The CIA, through its legislative liaison, has informed this Committee that [Director of Security] "retired" on or about February 26, 1974, shortly after his Executive Session Testimony before this Committee on February 25, 1974.

<sup>6</sup>See Executive Session Testimony of [Chief, Security Research Staff], supra note 3, at 25-26, 30; Executive Session Testimony of Lee R. Pennington, supra note 1, at 4-7, 10, 29. In this regard, Volume VIII CIA Supplemental Materials references an apparent CIA file on a United States citizen, Jack Anderson (#349691). This reference is contained in CIA memoranda in November and December of 1972 which discuss Pennington's providing his CIA case officer with a memorandum allegedly written by McCord about Jack Anderson and others. It should be noted that the CIA file on Mr. Pennington was not provided to this Committee and also apparently has portions "missing" from it, see Action Required section of this memorandum, infra, at Miscellaneous, No. 9.

<sup>7</sup>Executive Session Testimony of [Director of Security], February 25, 1974, at 17-18.

well as its Congressional oversight committees.<sup>8</sup> Because he was aware of many of the above facts, [Personnel Security Officer #1] made it clear that he could not and would not subscribe to such a statement.<sup>9</sup> [Personnel Security Officer #1] was so concerned that the documentary evidence of the Pennington information would be destroyed by others in the CIA that he and a co-employee copied the relevant memoranda and placed them in their respective personal safes.<sup>10</sup> This matter was subsequently brought to the Inspector General's attention and the [Director of Security's] memorandum of February 22 was drafted and made available to this Committee, the oversight committees, and the Special Prosecutor's office.<sup>11</sup>

Our investigation in this area also produced the fact that, contrary to previous CIA assertions, the CIA conducted a vigorous in-house investigation of the Watergate matter, starting almost immediately after the break-in.<sup>12</sup> As one member of the Security Research Staff

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<sup>8</sup>Supplemental CIA Materials, Volume VIII; see also Executive Session Testimony of [Personnel Security Officer #1], supra note 2, at 61-63.

<sup>9</sup>Executive Session Testimony of [Personnel Security Officer #1], supra note 2, at 45-52. In his Executive Session Testimony, [Personnel Security Officer #1] states that, at a meeting on January 22, 1974, to discuss whether the "Pennington matter" should be withheld from or disclosed to the appropriate authorities and Congressional committees, he informed his supervisory CIA personnel that (tr. 52):

"Up to this time we have never removed, tampered with, obliterated, destroyed, or done anything to any Watergate documents, and we can't be caught in that kind of bind now. We will not do it." [Personnel Security Officer #1] added that he "didn't cross the Potomac on (his) way to work in the morning, and that the Agency could do without its own L. Patrick Gray" (tr. 53). Subsequently, [Personnel Security Officer #1] prevailed and the information was made available to this and other appropriate Congressional Committees.

<sup>10</sup>Executive Session Testimony of [Personnel Security Officer #1], supra note 2, at 49, 45-52.

<sup>11</sup>See "Memorandum for Director of Central Intelligence," supra, note 1.

<sup>12</sup>Executive Session Testimony of [Personnel Security Officer #1], supra note 2, at 1-4; Executive Session Testimony of [Security Research Staff Officer], February 25, 1974, at 5, 31-32, 42, 49.

stated they were in a state of "panic."<sup>13</sup> In November and December of 1972, [Executive Officer to Director of Security] was specially assigned to then Executive Director/Comptroller Colby to conduct a very secretive investigation of several Watergate-related matters. [Executive Officer to Director of Security] was instructed to keep no copies of his findings and to make no records. He did his own typing and utilized no secretaries.<sup>14</sup>

Less clear than the aforementioned efforts to suppress the Pennington information, is an understanding of Pennington's actual role or non-role in the destruction of documents at the McCord home shortly after the Watergate break-in. Pennington has testified that he did not go to the McCord home for the purpose of searching for or destroying CIA-related documents, but does acknowledge witnessing the destruction of documents by Mrs. McCord and others.<sup>15</sup> It is clear from the testimony of others<sup>16</sup> that the CIA received information, evidently from Pennington, indicating more active participation by operative Pennington.

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<sup>13</sup>Executive Session Testimony of [Security Research Staff Officer], supra note 12, at 5.

<sup>14</sup>Executive Session Testimony of [Executive Officer to Director of Security], March 3, 1974 (transcription not presently available).

<sup>15</sup>~~Executive Session Testimony of Lee R. Pennington,~~ supra note 1.

<sup>16</sup>Executive Session Testimony of [Security Research Staff Officer], supra note 12;

Executive Session Testimony of [Personnel Security Officer #1], supra note 2.

Executive Session Testimony of [Chief, Security Research Staff], supra note 3.

TAPES

In a meeting in Senator Baker's office with Director Colby and George Murphy, following a discussion of the Cushman tape, Murphy asked Colby if there were other tapes, and he replied in the affirmative. In response to a question from Senator Baker, Colby further acknowledged the prior existence of a central taping capability at the CIA. Senator Baker then requested that relevant tapes be reviewed and delivered to the Committee, to which Colby agreed. Shortly thereafter, Colby confirmed to Senator Baker recent press accounts that the tapes had been destroyed. In that same connection it should be pointed out that the staff had previously interviewed Victor Marchetti, who stated upon questioning that he suspected that there was a central taping system at the CIA. When the staff broached this subject with the Agency's [Deputy Legislative Counsel], he stated that if there had been such a system, it was no longer in existence.

Shortly before Director Helms left office, and approximately one week after Senator Mansfield's letter requesting that evidentiary materials be retained,<sup>1</sup> Helms ordered that the tapes be destroyed.<sup>2</sup> Although the CIA is apparently unable to state with any degree of precision the date on which the tapes were actually destroyed, testimony indicates that it was during the week of January 22, 1973.<sup>3</sup> While the CIA claims that the destruction was not unusual and was one of several periodic destructions, two facts seem clear. First, the only other destruction for which the CIA has any record was on January 21, 1972, when tapes

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<sup>1</sup>Letter from Senator Mansfield to DCI Helms, dated January 16, 1973.

<sup>2</sup>Executive Session Testimony of [Director Helms' Secretary], February 6, 1974, at 14. See also CIA memorandum for Director of Security, dated January 31, 1974, at 3. She states that she told the technicians to destroy only Helms' tapes and not all of the tapes (Executive Session Testimony at 34-35). However, there seems to have been no doubt in the minds of the technicians that they were to destroy all of the tapes on hand. Executive Session Testimony of [Office of Security Technician #1], February 6, 1974, at 23. Executive Session Testimony of [Office of Security Technician #2], February 6, 1974, at 53.

<sup>3</sup>Executive Session Testimony of [Office of Security Technician #2], supra note 2, at 36. See also CIA memorandum for Director of Security, supra note 2.

for 1964 and 1965 were destroyed (there are no records of periodic destructions)<sup>4</sup>; and secondly, never before had there been a destruction of all existing tapes.<sup>5</sup> It should be noted that there exists a separate taping system for the Office of Security.<sup>6</sup> That system is still operative, and the O/S tapes presumably are still in existence. The Agency has advised that it has reviewed all Office of Security tapes, watch office tapes, and duty office tapes to determine the relevancy of same but has not provided these tapes to the Select Committee, despite the Committee's request. The Agency has provided the Committee with two selected transcripts which purport to constitute, in the opinion of the Agency, the only Watergate related material contained on any tapes.

The January, 1973<sup>3</sup> destruction pertained only to recordings of room conversations. However, on Helms' instruction, his secretary destroyed his transcriptions of both telephone and room conversations.<sup>7</sup> The evidence indicates that among those telephone transcriptions were conversations with the President, Haldeman, Ehrlichman, and other White House officials.<sup>8</sup> Helms and [Director Helms' Secretary] have testified that such conversations were non-Watergate related.<sup>9</sup> Unfortunately, any means of corroboration is no longer available. We have examined summaries of logs made available by the CIA, but it is impossible to determine who was taped in many of the room conversations. In this regard, even the CIA's analysis does not provide this vital information. There are several references to a "Mr. X." The CIA has not produced the actual logs for our examination. However, we were informed that there are "gaps" in the logs.

The circumstances surrounding the transcriptions of room and telephone conversations of former Deputy Director Cushman are bizarre to say the least. When Cushman testified before the Watergate Committee on August 2, 1973, he presented a transcription of the

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<sup>4</sup>Executive Session Testimony of [Office of Security Technician #1], supra note 2 at 10. Executive Session Testimony of [Office of Security Technician #2], supra note 2 at 36-37.

<sup>5</sup>Executive Session Testimony of [Office of Security Technician #2], supra note 2 at 20.

<sup>6</sup>CIA memorandum for Director of Security, supra note 2 at 4.

<sup>7</sup>Executive Session Testimony of [Director Helms' Secretary], supra note 2 at 14, 17, 19. Executive Session Testimony of Richard Helms, March 8, 1974 (transcription not yet available).

<sup>8</sup>Executive Session Testimony of [Director Helms' Secretary], supra note 2 at 22.

<sup>9</sup>Executive Session Testimony of Helms, supra note 7; Executive Session Testimony of [Director Helms' Secretary], supra note 2 at 23.

Cushman/Hunt conversation of July 22, 1971.<sup>10</sup> We recently discovered that there exists an original, more complete transcription; that the original transcription contained an insignificant but uncomplimentary reference to the President; and, that the original was available to the CIA at the time of the Committee's hearings in August of 1973. In fact, the original transcript was not produced until February of this year, the day before Senator Baker was to listen to the Cushman/Hunt tape, per his request.

The Cushman/Hunt conversation and one other were the only two room transcriptions saved by Cushman's secretary, [presently, Director Colby's Secretary, hereinafter referred to as Cushman/Colby's Secretary], and his assistant [Executive Assistant to Deputy Director of CIA, hereinafter referred to as Exec. Asst. to DDCI], when Cushman's safe was cleaned out in December of 1971.<sup>11</sup> They claimed that they made a search for the original transcription shortly after the Watergate break-in but that it was not found, and therefore an abbreviated transcription was typed.<sup>12</sup> Therefore, we have a search by [Exec. Asst. to DDCI] shortly after the Watergate break-in in June of 1972 and another search in May of 1973, the original transcript not having been found until May of 1973.

In February of this year [Deputy Legislative Counsel] hand-delivered to Senator Baker a very significant document. It was the transcription of a portion of the Ehrlichman/Cushman telephone conversation. [Deputy Legislative Counsel] stated it had been recently discovered by [Exec. Asst. to DDCI].<sup>13</sup> It was discovered during [Exec. Asst. to DDCI's] third search for Watergate-related materials, and it was located in the same file as the Cushman/Hunt transcript.<sup>14</sup>

<sup>10</sup> Public Testimony of General Robert E. Cushman at 3291.

<sup>11</sup> Executive Session Testimony of [Cushman/Colby Secretary], February 21, 1974.

<sup>12</sup> Id. at 64; see also memorandum of [Exec. Asst. to DDCI], July 23, 1973, Supplemental CIA Materials, Volume IV.

<sup>13</sup> See Ehrlichman/Cushman tape transcription, CIA memorandum "For All Employees" dated January 31, 1974, at Tab B.

<sup>14</sup> Affidavit of [Exec. Asst. to DDCI], February 5, 1974, and Executive Session Testimony of [Exec. Asst. to DDCI], March 6, 1974 (transcription not yet available).

The document is especially significant in that it quotes Ehrlichman as saying that Hunt was working for the President and that the CIA was to give Hunt "carte blanche." This, of course, substantiates the CIA's claim that Ehrlichman made the original call with regard to the CIA's assistance to Hunt. Surprisingly, we learned that [Cushman/Colby Secretary], although she says she was told that Mr. Cushman did not have his calls monitored, did, in fact, monitor certain of his calls anyway, especially with people at the White House, without Cushman's knowledge.<sup>15</sup> The Cushman/Ehrlichman transcript was a result of the shorthand notes she took of a monitored call.<sup>16</sup>

There are two interesting aspects to this transcription. First, only the Ehrlichman portion of the conversation was transcribed, contrary to normal practice;<sup>17</sup> and secondly, Cushman does not recall any reference to the President or to "carte blanche."<sup>18</sup>

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<sup>15</sup> Executive Session Testimony of [Cushman/Colby Secretary], supra note 11 at 12-13.

<sup>16</sup> Id. at 17, 18.

<sup>17</sup> Id. at 80-81.

<sup>18</sup> Executive Session Testimony of General Robert E. Cushman, March 7, 1974 (transcription not yet available).

## HUNT--TSD SUPPORT--ELLSBERG PROFILE

The Committee has received much testimony over the past several months detailing the extensive support of Howard Hunt by CIA personnel with CIA materials and the CIA's role in the preparation of the psychological profiles of Daniel Ellsberg. Howard Hunt was involved in a wide variety of domestic undertakings with the use of CIA equipment and the assistance of CIA personnel, e.g., the burglaries of Dr. Fielding's office and the DNC, the preparation of psychological profiles on Daniel Ellsberg and the investigation of the Chappaquidick incident. In light of the facts and circumstances developed through the documents and conflicting testimony of CIA personnel adduced by this Committee, which are summarized below, the question arises as to whether the CIA had advance knowledge of the Fielding break-in. The Fielding burglary was not made public until May of 1973.

While the CIA has previously belatedly acknowledged some of the technical support it provided to Hunt and Liddy prior to the Fielding break-in, the CIA has continually downplayed the extent of that technical support as well as the specific approval and detailed knowledge of such support by high level CIA officials.<sup>1</sup> The scenario of events culminating in the Fielding break-in caused a wealth of conflicting testimony among CIA officials as referred to hereinafter.

The CIA's assistance to Hunt began on July 22, 1971, when Hunt met with General Cushman, then Deputy Director of the CIA, in Cushman's office to request physical disguise and phony identification to effect a "one time operation, in and out."<sup>2</sup> This meeting was tape recorded by Cushman. Thereafter, pursuant to the specific approval of both

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<sup>1</sup> See affidavits of Cushman, [Exec. Asst. to DDCI], and [Deputy Chief, TSD], Original CIA Materials, Volume II, Tab D.

<sup>2</sup> Partial tape transcript of July 22 meeting, Original CIA Materials, Volume II, Tab K, at 1; see also Cushman's affidavit, *id.*, and complete unabridged tape transcript of July 22 meeting, CIA Supplemental Materials, Volume II, Tab 4.



Cushman and then Director of the CIA Richard Helms, a member of the CIA's Technical Services Division was assigned to provide Hunt with the assistance and materials he requested.<sup>3</sup> During the next thirty days, the CIA technical staff met with Hunt on four separate occasions. Most meetings were held at CIA "safe houses" (dwellings owned or leased by the CIA for clandestine meetings).<sup>4</sup> At those meetings Hunt was provided with the CIA equipment and assistance described in earlier Committee testimony, i.e., a wig, voice alteration devices, heel lift to cause a limp,<sup>5</sup> fake glasses, phony driver's licenses and identification cards, a Uher 5000 tape recorder disguised in a typewriter case, a camera hidden in a tobacco pouch, preliminary steps toward a phony New York telephone answering device, and the developing of the film of Hunt and Liddy's reconnaissance trip to Los Angeles to "case" Dr. Fielding's office.<sup>6</sup> This assistance was abruptly terminated on August 27, 1971--one week before the Fielding burglary of September 3, 1971.<sup>7</sup>

Recent testimony and documents have developed several matters of considerable import with regard to the assistance provided Hunt and Liddy. The technician who dealt with Hunt has testified that he received approval for each and every request of Hunt from his supervisory

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<sup>3</sup>See Executive Session Testimony of General Robert E. Cushman, March 7, 1974, at 10, 12; *contra*, Executive Session Testimony of Richard Helms, March 8, 1974, and Testimony of Richard Helms before the Senate Committee on Appropriations, May 16, 1973, at 195-196.

<sup>4</sup>See Executive Session Testimony of [TSD Technician #1], February 5 and 6, 1974, at 3-25 (February 5 tr.); and Exhibit 1 to that testimony (notes of [TSD Technician #1] compiled contemporaneously with the support of Hunt) also found in CIA Supplemental Materials, Volume VII, Tab 8.

<sup>5</sup>Staff interview with Howard Hunt, February 4, 1974.

<sup>6</sup>Public Testimony of Richard Helms and General Robert E. Cushman, August 2, 1973; affidavits of [TSD Technician #1, TSD Technician #2, Deputy Chief, TSD, and Exec. Asst to DDCI], Original CIA Materials, Volume II, Tab D.

<sup>7</sup>Id.

officials at the CIA.<sup>8</sup> He also testified that, contrary to earlier and other CIA testimony, Hunt informed him early in August that he would be introducing a second man (Liddy) to the technician for the provision of disguise and false identification.<sup>9</sup> CIA officials heretofore had claimed that Hunt introduced Liddy unannounced late in August and that this introduction had been one of the leading causes for the CIA's ultimate termination of its support for Hunt.<sup>10</sup>

Testimony and documents have also revealed, again contrary to the testimony of high CIA officials, that Hunt's request for a New York "backstopped" telephone (a telephone with a New York number which would in reality be answered by a Washington CIA switchboard) answering service was well on its way to completion.<sup>11</sup> A detailed memorandum of the TSD technician, dated August 27, 1971, reveals that the backstopped telephone request was about to be implemented.<sup>12</sup> This memorandum includes the actual relay number to be called. Previous CIA testimony had always been to the effect that this telephone

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<sup>8</sup>Executive Session Testimony of [TSD Technician #1], supra note 4 at 10 (February 6 tr.), at 57 (February 5 tr.).

<sup>9</sup>Id. at 55-57 (February 5 tr.); see also notes referred to in note 4, supra.

<sup>10</sup>Affidavits of [Exec. Asst. to DDCI] [Deputy Chief, TSD], Cushman, supra note 1; memoranda [of Exec. Asst. to DDCI] dated August 23, 26, and 30, Original CIA Materials, Volume II, Tab K; compare Executive Session Testimony of [TSD Technician #1], supra note 4 at 55-56 (February 5 tr.) with Executive Session Testimony of [Deputy Chief, TSD], February 5, 1974, at 24.

<sup>11</sup>Executive Session Testimony of [TSD Technician #1], supra note 4 at 8-10, 12 (February 6), and Exhibit 1 to [TSD Technician #1]'s testimony at 5, which details the steps taken by the CIA to implement Hunt's request.

<sup>12</sup>Id.

request was so unreasonable that it was immediately disapproved and that it was also a leading cause of the ultimate termination of Hunt's support.<sup>13</sup>

Recent testimony also established that the CIA created a file on Hunt's activities entitled the "Mr. Edward" file. This file was maintained outside the normal CIA filing system, and this Committee's requests to obtain this file have not been granted, despite the fact that testimony has established that this file was turned over to Director Colby after the Watergate break-in.<sup>14</sup> Moreover, recent testimony also indicates that a "bigot list" (CIA term for treatment of especially sensitive case restricting access to a limited number of persons) was created for Hunt's activities.<sup>15</sup>

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<sup>13</sup>See affidavits of [Exec. Asst. to DDCI], [Deputy Chief, TSD], Cushman, and memoranda of [Exec. Asst. to DDCI], supra note 10; Executive Session Testimony of Cushman, March 7, 1974, at 19-21. Moreover, Executive Session Testimony of Richard Helms, supra note 3, indicates that it was Hunt's request for a secretary which caused him to order the cut-off of support. This request, however, occurred on August 18 and was denied the same or next day, see Executive Session Testimony of [Exec. Asst. to DDCI], March 6, 1974 (transcription not presently available), contra, testimony of Richard Helms before the Senate Committee on Appropriations, supra note 3, at 197.

<sup>14</sup>Executive Session Testimony of [Deputy Chief, TSD], February 5, 1974, at 14-15; Executive Session Testimony of [Chief, TSD], February 5, 1974, at 29-30.

<sup>15</sup>Executive Session Testimony of [TSD Technician #1], supra note 4, at 2-4 (February 6 tr.)

Testimony has indicated that the film developed for Hunt and Liddy was, in fact, of Dr. Fielding's office.<sup>16</sup> Not only was the film developed, however, but it was reviewed by CIA supervisory officials before it was returned to Hunt.<sup>17</sup> One CIA official who reviewed the film admitted that he found the photographs "intriguing" and recognized them to be of "southern California."<sup>18</sup> He then ordered one of the photographs to be blown up. The blow-up revealed Dr. Fielding's name in the parking lot next to his office.<sup>19</sup> Another CIA official has testified that he speculated that they were "casing" photographs.<sup>20</sup> Recent testimony has shown that the CIA official who reviewed these photographs immediately reported their content to Cushman and his assistant in the office of the Deputy Director of the CIA.<sup>21</sup> With a degree of incredulity, however, he denies telling his superiors that he blew up one of the photographs and that it revealed the name of Dr. Fielding.<sup>22</sup> Moreover, both Cushman and his assistant denied ever

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<sup>16</sup>Executive Session Testimony of [Executive Officer to Director of Security], March 3, 1974 (transcription not presently available); Staff interview of Howard Hunt, supra note 5 (wherein Hunt indicates that the film the CIA developed included shots of a "close-up of (Fielding's office) door, a close-up of the directory of (Fielding's) building, photographs of the ingress and egress of the parking lot . . ." as well as shots of the inside of Fielding's office, including the top of Fielding's desk.

<sup>17</sup>Executive Session Testimony of [TSD Technical #1], supra note 4 at 20-24, 52-53 (February 5 tr.); Executive Session Testimony of [Deputy Chief, TSD], supra note 14 at 43-47.

<sup>18</sup>Executive Session Testimony of [Deputy Chief, TSD], supra note 14 at 44.

<sup>19</sup>Id. at 45-46.

<sup>20</sup>Executive Session Testimony of [Chief, TSD], February 5, 1974, at 19-20.

<sup>21</sup>Executive Session Testimony of [Deputy Chief, TSD], supra note 14 at 47-49.

<sup>22</sup>Id.

having been told about the content of the photographs by [Deputy Chief, TSD] or anyone else.<sup>23</sup> In any event, recent testimony shows that it was only after these photographs were developed and examined that the CIA technician dealing with Hunt was ordered to cut off all support for Hunt.<sup>24</sup> This decision was made by the Deputy Director of the CIA (Cushman) and/or the Director of the CIA (Helms).<sup>25</sup>

Finally, while previous public CIA testimony claimed that the CIA "had no contact whatsoever with Mr. Hunt subsequent to 31 August, 1971,"<sup>26</sup> recent testimony and secret documents indicate that Hunt had extensive contact with the CIA after that date. Not only did Hunt play a large role in the CIA's development of psychological profiles on Daniel Ellsberg (not completed until November of 1971), but he actually contacted the CIA's External Employment Assistance Branch (EEAB) and approached active CIA personnel regarding several

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<sup>23</sup> Executive Session Testimony of General Robert E. Cushman, March 7, 1974, at 22-23; Executive Session Testimony of [Exec. Asst. to DDCI], March 6, 1974 (transcription not presently available).

<sup>24</sup> ~~Executive Session Testimony of [TSD Technical #1], supra~~ note 4, at 59-60; and Exhibit 1 to that testimony.

<sup>25</sup> Executive Session Testimony of General Robert E. Cushman, March 7, 1974, at 21-22, 16-20; Executive Session Testimony of Richard Helms, March 8, 1974, contra (transcription not presently available).

<sup>26</sup> Lieutenant General Vernon A. Walters Memorandum for Record, July 28, 1972, Original CIA Materials, Volume I, Tab S.

operations, including, e.g., Hunt's requests to the CIA for person(s) skilled in lockpicking, electronic sweeping, and entry operations.<sup>27</sup>

It is significant that during the same time period as the ongoing support of Hunt by the CIA, August of 1971, the CIA was also compiling a psychological profile on Daniel Ellsberg. Recent testimony has revealed that Hunt was deeply involved in that project as well.

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<sup>27</sup>Contacts after August 31, 1971, indicated in the Secret Supplemental CIA Materials, include the following:

- a. Hunt was referred to [Former CIA employee] by [Chief, EEAB] of the CIA's EEAB, ([Chief, EEAB] retired on June 19, 1972) when Hunt requested a "retired lockpicker" and entry man in the time period of March-May, 1972. CIA Supplemental Materials, Volume I, Tab 4, Memorandum of June 19, 1973.
- b. Hunt, in late 1971, requested some "'security types' to check physical security and monitor telephones in Las Vegas," in connection with Hunt's work on the Hughes account with Mullen and Company. Hunt was referred by [Chief, EEAB] to an [Agency. proprietary (name deleted at Agency request)] (CIA Supplemental Materials, Volume I, Tab 4.)
- c. Hunt contacted [deleted at Agency request] (an active CIA employee until November 10, 1972) sometime in late 1971 regarding a weekend entry operation.
- d. Hunt contacted CIA employee [deleted at Agency request] October of 1971 concerning certain Indo-China War documents (Original CIA Materials, Volume II, Tab D).
- e. On December 8, 1971, Hunt requested and received a CIA computer name trace, by CIA employees, on a person who had allegedly formed the [deleted name of Latin American country at Agency request] National Independent Party in December of 1971 (Original CIA Materials, Volume II, Tab D).
- f. The CIA acknowledges that the Deputy Director of Plans of the CIA did meet with Hunt on October 15, 1971 to discuss Mullen and Company problems.

The preparation of this profile was specifically approved by then Director Helms in late July of 1971.<sup>28</sup> The actual compiling of the profile was done by the CIA's medical services staff and, in particular, its chief psychiatrist.<sup>29</sup> Testimony has indicated that a meeting was held on August 12, 1971, in which both Howard Hunt and Gordon Liddy participated. They told the CIA psychiatrist that Ellsberg had been undergoing psychiatric analysis. Hunt and Liddy discussed with him their desire to "try Ellsberg in public," render him "the object of pity as a broken man," and be able to refer to Ellsberg's "Oedipal complex."<sup>30</sup> At the close of the meeting, Hunt asked the psychiatrist not to reveal his presence in the profile discussions to anyone at the CIA, stating that he already had been in contact with General Cushman and was on good terms with Director Helms. The psychiatrist has testified recently that he was extremely concerned about Hunt's presence and remarks. He so reported this to his CIA superiors, both in memoranda and in a meeting on August 20, 1971. Access to the memoranda of both the psychiatrist and his superiors has been refused to this Committee.<sup>31</sup>

The CIA psychiatrist also was given the name of Dr. Fielding as Ellsberg's psychiatrist and numerous FBI reports of interviews with Ellsberg's associates, as well as a memorandum of a reported telephone conversation between Ellsberg and another party.<sup>32</sup> And recent testimony has revealed that it was reported back to the psychiatrist that Director Helms was advised of his concerns regarding Hunt's participation and comments.<sup>33</sup> While Director Helms has

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<sup>28</sup> Affidavit of [Deputy Director of Support, hereafter referred to as the DDS] and [Director of Medical Services Staff, hereinafter referred to as the DMSS] and [Chief of Psychiatric Staff on Medical Services Staff, hereinafter referred to as Chief Psychiatrist], Original CIA Materials, Volume I, Tab U; Volume II, Tab D.

<sup>29</sup> Id.

<sup>30</sup> Executive Session Testimony of [Chief Psychiatrist], March 6, 1974 (transcription not presently available).

<sup>31</sup> Id., see also Colby letter refusing access, infra.

<sup>32</sup> Id.

<sup>33</sup> Id.

denied that he was ever told that Hunt was involved in the CIA's Ellsberg profile project,<sup>34</sup> it is not without significance that the time period during which the CIA psychiatrist was briefing his superiors of his concerns regarding Hunt was circa August 20, 1971--a week prior to the developing of Hunt's film of "intriguing" photographs of medical offices in southern California which impressed at least one CIA official as "casing" photographs.<sup>35</sup>

With the aforementioned background, we are reminded that when the second profile on Ellsberg was completed (completion was delayed until November of 1971), Director Helms took pains to inform the White House that:

I do wish to underline the point that our involvement in this matter should not be revealed in any context, formal or informal (emphasis added).<sup>36</sup>

In his recent testimony before this Committee, Director Helms stated that the above quoted language represented his concern only for the professional reputations of the CIA psychiatrists and not any concern over the possible illegality of the profile.<sup>37</sup> It should be noted, however, that in a memorandum from the psychiatrists' CIA supervisor to Helms in November of 1971, which accompanied the completed profile, their concern is expressed as follows:

[DMSS] and [Chief Psychiatrist] . . . confirmed that their worries did not . . . involve professional ethics or credibility. Instead, they are concerned lest the Agency's involvement . . . become known and particularly that it might come to light during any

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<sup>34</sup>Executive Session Testimony of Richard Helms, supra note 3; Testimony of Richard Helms before the Senate Armed Services Committee, May 17, 1973, at 17.

<sup>35</sup>See Executive Session Testimony of [Chief, TSD], supra note 20.

<sup>36</sup>Memorandum from Richard Helms to David Young, November 9, 1971, Original CIA Materials, Volume II, Tab J.

<sup>37</sup>Executive Session Testimony of Richard Helms, supra note 3.



proceeding. \* \* \* We will be guided by your determination after you have had an opportunity to read the new paper. (Emphasis supplied.)<sup>38</sup>

The facts and circumstances related above, as derived from the recently curtailed investigation of this Committee, would appear to raise many unanswered questions as to the involvement of the CIA in matters outside its legislative parameters.

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<sup>38</sup>Memorandum from [DDS], CIA Deputy Director of Support, to Richard Helms, Director of Central Intelligence, November 9, 1971, Original CIA Materials, Volume II, Tab J.

## HUNT--MARTINEZ--CIA

Director Helms, upon being questioned about Martinez, has consistently testified to little more than the fact that Eugenio Martinez was on a \$100 per month retainer with the CIA as an informant on Cubans of interest to the Agency.<sup>1</sup> Our investigation has revealed relevant information concerning Martinez' CIA relationship, as set out below, not previously brought forward in testimony by CIA officials.

Because of Hunt's close relationship with Martinez at a time when Martinez was a paid CIA operative, the basic question arises as to whether the CIA was aware of Hunt's activities early in 1972 when he was recruiting Cubans to assist in the Watergate break-in.

Prior to assuming a retainer status in the summer of 1971, Martinez had been a full-salaried operative involved in Agency[deleted at Agency request] endeavors.<sup>2</sup> In November of 1971, a month after his participation in the Fielding break-in, Martinez mentioned his contact with Hunt in an allegedly innocuous fashion to his case officer and the Miami Chief of Station.<sup>3</sup> There is also evidence that Martinez had mentioned Hunt even earlier to his case officer.<sup>4</sup> In March of 1972, Martinez advised

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<sup>1</sup>Senate Foreign Relations Committee Report of Richard Helms Testimony, February 7, 1973, at 24, 50; Senate Select Committee Transcript of Richard Helms Testimony, August 2, 1973, at 6733-6734, 6814-6815.

<sup>2</sup>Executive Session Testimony of [Miami Chief of Station, hereinafter COS], February 7, 1974, at 5-9.

<sup>3</sup>[Martinez' Case Officer (1971-1972), hereinafter referred to as Case Officer #1] Memorandum for the Record (excerpt), November 19, 1971, Agent:[Martinez' Code Name], found at Tab 1, CIA Supplemental Materials, Volume II; Executive Session Testimony of [COS], supra note 2, at 14-18.

<sup>4</sup>[Case Officer #1] Memorandum for the Record (excerpt), supra note 3; Executive Session Testimony of [COS], supra note 2, at 13.

the Miami Chief of Station that Hunt was employed by the White House and asked the Chief of Station if he was sure that he had been apprised of all Agency activities in the Miami area.<sup>5</sup> This concerned the Chief of Station who sent a letter to CIA headquarters requesting information on Hunt's White House status.<sup>6</sup> On March 27, 1972, the Chief of Station received a cryptic response at the direction of the Assistant Deputy Director of Plans advising the Chief of Station not to concern himself with the travels of Hunt in Miami, that Hunt was on domestic White House business of an unknown nature and that the Chief of Station should "cool it."<sup>7</sup> (It should be remembered that this was after the Agency provided Hunt with TSD support in July and August of 1971. It is not explained why Hunt, who had "used" the CIA, was not of more interest to the Agency, especially when he was contacting a current operative, Martinez.) The tone of this letter infuriated the Chief of Station and left him uneasy about the matter.<sup>8</sup> Accordingly, the Chief of Station requested that Martinez prepare in Spanish a report on the Hunt information provided the Chief of Station in March.<sup>9</sup> Martinez compiled a "cover story"<sup>10</sup> on April 5, 1972,

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<sup>5</sup>Executive Session Testimony of [COS], supra note 2, at 23-27.

<sup>6</sup>Id. at 25-27; See [COS] Memorandum for Chief, [deleted at Agency request], March 17, 1972, Subject: Miscellaneous Information from [Martinez' Code Name], found at Tab 1, CIA Supplemental Materials, Volume II; [COS] [sensitive] letter, March 17, 1972, found at Tab 1, CIA Supplemental Materials, Volume II.

<sup>7</sup>Executive Session Testimony of [COS], supra note 2, at 31-34; [Chief, Cuban Operations Branch, Western Hemisphere Division, herein-after referred to as Chief, COB] letter to [COS], March 27, 1972, found at Tab 1, CIA Supplemental Materials, Volume II.

<sup>8</sup>Executive Session Testimony of [COS], supra note 2, at 32, 80.

<sup>9</sup>Id. at 33-34, 38-40; [Case Officer #1] Cable [deleted at Agency request], December 15, 1973, found at Tab 2, CIA Supplemental Materials, Volume II; Executive Session Testimony of Eugenio Martinez, December 10, 1973, at 45-47.

<sup>10</sup>Executive Session Testimony of [COS], supra note 2, at 91; see Executive Session Testimony of Eugenio Martinez, supra note 9, at 11.

after being told by his case officer not to put anything in the report which might come back to haunt him.<sup>11</sup> The Spanish report, which did not contain any of the alarming innuendos suggested earlier by Martinez, was maintained in the Chief of Station's file until after the Watergate break-in.<sup>12</sup>

It is known that Martinez had two case officers during 1971 and 1972. There is conflicting evidence concerning the precise date of the spring, 1972 case officer change-over.<sup>13</sup> It is known that Martinez met with his last case officer on June 6, 1972, and at that time had at least two reporting requirements, i.e., maritime operation information and information pertaining to possible demonstrations, at the Miami conventions,<sup>14</sup> contrary to earlier testimony by CIA officials.<sup>15</sup> The Agency has not afforded this Committee an unabridged examination of the case officer contact reports, despite requests for same.

The Agency has advised that Martinez' first case officer was on an "African safari" throughout June of 1972.<sup>16</sup> The second case officer

<sup>11</sup>Executive Session Testimony of Eugenio Martinez, supra note 9, at 53, 58-59. [Case Officer #1] Cable [deleted at Agency request], supra note 9.

<sup>12</sup>Executive Session Testimony of [COS], supra note 2, at 33-34. See also Original Spanish Report and Translated Spanish Report, found at Tab 1, CIA Supplemental Materials, Volume I (attention to discrepancies).

<sup>13</sup>Tab Z, CIA Supplemental Materials, Volume VII (indicating April 14, 1972 change-over); Tab 10, Original CIA Materials, Volume III (indicating a March, 1972 change-over); Executive Session Testimony of [COS], supra note 2, at 36 (indicating April 23-30, 1972 change-over).

<sup>14</sup>Executive Session Testimony of [Case Officer #2], February 4, 1974, at 25-26, 41-42.

<sup>15</sup>Supra note 1.

<sup>16</sup>CIA Deputy Legislative Counsel showed this staff a printed itinerary for the first case officer which contained the referenced entry. Legislative Counsel has not made that itinerary a part of the supplemental materials furnished the staff.

has testified that the former case officer was in Miami on June 19, 1972.<sup>17</sup> The first case officer has been transferred to [Indochina] and was not made available for interview by our Committee. The second case officer stated in his interview that he was rushed to CIA headquarters the week following Watergate and told that he would be required to stay there until September for reasons related to his involvement with Martinez.<sup>18</sup> This case officer remains assigned to CIA headquarters.

On the morning of June 18, 1972, the Miami Chief of Station dispatched a cable to CIA headquarters regarding the activities of Martinez but deliberately omitting Martinez' prior reference to Hunt's activities.<sup>19</sup> On June 19, 1972, the Chief of Station received correspondence from CIA headquarters advising him to keep in better touch with his operatives in Miami.<sup>20</sup> This prompted the Chief of Station to forward a copy of the Martinez report in Spanish to headquarters.<sup>21</sup> The Chief of Station was confounded as to why he was not told to terminate the Martinez relationship if the CIA headquarters suspected the involvement of Hunt in political activities.<sup>22</sup> He later brought this matter up with the Assistant Deputy Director of Plans, who told him that the Agency was uneasy about Hunt's activities for the White House in "March or May" of 1972.<sup>23</sup> The Assistant Deputy Director

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<sup>17</sup>Executive Session Testimony of [Case Officer #2], supra note 14, at 73.

<sup>18</sup>Id. at 49-50.

<sup>19</sup>Id. at 36-37, 78.

<sup>20</sup>[Chief, Western Hemisphere Division] "Dear Friend" letter, June 20, 1972, found at Tab 2, CIA Supplemental Materials, Volume II

<sup>21</sup>[COS] "Dear Friend" letter, June 20, 1972, found at Tab 2, CIA Supplemental Materials, Volume II; Executive Session Testimony of [COS], supra note 2, at 73-75.

<sup>22</sup>Executive Session Testimony of [COS], supra note 2, at 80-82.

<sup>23</sup>Id. at 82-83.

of Plans testified that he assumed in March of 1972 that Hunt was involved in partisan political work for the White House and that this assumption formed the basis for his guidance to the Miami Chief of Station at that time.<sup>24</sup> He further testified that the Miami Chief of Station wanted to check on Hunt's activities domestically,<sup>25</sup> an allegation denied by the Chief of Station<sup>26</sup> and not reflected in any of the CIA correspondence made available to us.

Despite conflicting evidence from the FBI and the CIA,<sup>27</sup> it is known that the Agency received information on June 19, 1972, from an operative that Martinez' vehicle was at the Miami airport and contained compromising documents.<sup>28</sup> The Agency contacted the FBI with this information on June 21, 1972.<sup>29</sup> Our staff has yet to receive a satisfactory explanation regarding the aforementioned time lag and an accounting of Agency actions during the interim.

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<sup>24</sup>Executive Session Testimony of ADDP , February 28, 1974, transcript not presently available.

<sup>25</sup>Id.

<sup>26</sup>Executive Session Testimony of COS , supra note 2, at 84.

<sup>27</sup>Id. at 62-65; Report of Interview of Agent Robert L. Wilson, dated January 11, 1974, at 4. A comparison reveals a discrepancy as to manner in which FBI was notified and raises questions concerning what the FBI found.

<sup>28</sup>Executive Session Testimony of COS , supra note 2, at 58-60; Executive Session Testimony of Case Officer #2 , supra note 14, at 15-17.

<sup>29</sup>Report of Interview of Agent Robert L. Wilson, supra note 27, at 3.

## ACTION REQUIRED

The following is a breakdown by area of interest of action desirable to complete the Watergate-related CIA investigation commenced by this staff.

MARTINEZ RELATIONSHIP

## 1. Interviews \*

- a. Chief, Western Hemisphere Division (1971-April, 1972).
- b. Chief, Western Hemisphere Division (April, 1972-1973).
- c. Chief, Cuban Operations Branch, Western Hemisphere Division (1971-1972).
- d. Martinez' case officer (1971-March, April, 1972). Prior efforts to interview this individual have been frustrated by virtue of his present assignment in [Indochina].
- e. Executive Assistant to the ADDP (1971-1973).
- f. Executive Assistant to the DDP (1971-1973).

The foregoing interviews are necessary in order to determine the extent of the CIA's knowledge of Hunt's activities.

- g. Chief, Miami Office of Security (June, 1972).
- h. Miami Chief of Station's informant with regard to Martinez' car.
- i. Above informant's source with regard to Martinez' car.

These interviews are necessary to explain the time lag in giving notice to the FBI; to identify CIA actions (particularly the Miami Office of Security) regarding this information; and to determine the scope of information received by the Agency and transmitted to the FBI.

## 2. Documents

- a. All Martinez case officer contact reports (1971-July, 1972). We have repeatedly requested access to unabridged reports, but the Agency has made available only an abridged version of early reports. Access is necessary to determine the scope of Martinez' relationship in the relevant time frame and whether he provided any Watergate-related information to his case officer.
- b. All CIA correspondence re: Martinez car (cables, etc.). This information, although not previously requested per se, is critical to the documentation of Agency action on this issue and, to resolve conflicting evidence supplied by the FBI.
- c. All reports or memoranda relating to the debriefing of Martinez' last case officer upon his return to Washington, D. C., after the Watergate break-in. This information has been previously requested but not provided to this staff.

## MULLEN AND COMPANY RELATIONSHIP

### 1. Interviews

- a. Mullen and Company secretaries (1971-1972). This is needed to confirm or deny suspicions relevant to the indicated Agency/Bennett/Hughes link.
- b. Far east cover (June, 1972).
- c. European cover.

The foregoing interviews are necessary to a meaningful understanding of the "WH flap" and to gauge any relationship of same to the Watergate break-in.

- d. Chief, Central Cover Staff (1971-1972). This interview is necessary to clarify the "WH flap" and to ascertain the Agency's response to the Bennett information contained in the summer, 1972 memoranda.



## 2. Documents

Any and all reports of contacts between [Mullen and Company Case Officer] and Mullen, Bennett, Hunt and anyone else at Mullen and Company from April 30, 1970 to January 1, 1974, including but not limited to logs, records, or memoranda reflecting such contact or the content of that contact. This information was requested during the February 4, 1974 Executive Session of [Mullen and Company Case Officer] along with data reflecting changes in the procedure for maintaining and/or making reports of contacts outside the Agency.

## TSD SUPPORT OF HUNT

### 1. Interviews

- a. [TSD Technician #3] -- TSD technician who developed the photographs for Hunt and blew up a particular photograph for [Deputy Chief, TSD]. Determination needed as to what was done with blow-up and whether it was subsequently used for briefing others at CIA.
- b. [TSD Technician #2] -- TSD technician who purchased the Uher 5000 tape recorder and equipped it for Hunt's purposes.
- c. [Executive Assistant to DDP] -- Consulted during initial stages of TSD support and relayed the TSD requirement to the DDP.

## 2. Documents

- a. "Mr. Edward" file -- The file containing all memoranda and other materials relating to the CIA's TSD support of Hunt. This file has been requested, but has not been produced, despite the fact that the file was given to Director Colby after the Watergate break-in.
- b. All memoranda prepared by [Executive Officer to Director of Security], or any other CIA employee, regarding the TSD support of Hunt, including but not limited to all internal memoranda concerning the TSD support which is not contained in the "Mr. Edward" file.

PSYCHOLOGICAL PROFILE OF DANIEL ELLSBERG

## 1. Interviews

- a. [DMSS] -- Director of Medical Services who supervised and participated in the preparation of both Ellsberg profiles..
- b. [DDS] -- The immediate supervisor of the Medical Services staff who prepared the psychological profile and who served as liaison between Director Helms and the psychiatric staff.
- c. Executive Assistant to DDS -- Knowledgeable with regard to the psychological profile..

## 2. Documents:

- a. ~~All information received by the CIA from the FBI or the White House which served as raw data for preparation of both psychological profiles. Testimony has established that this data contained FBI reports of interviews with female associates of Ellsberg, as well as a report of a purported telephone conversation between Ellsberg and another party.<sup>1</sup> The data should establish the extent of the CIA's admitted knowledge of the name of Ellsberg's psychiatrist as well as the CIA's knowledge of the activities of Hunt.~~

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<sup>1</sup>Executive Session Testimony of [Chief Psychiatrist], March 7 1974, (transcription not presently available).

- b. All documents, reports, or memoranda relating in any way to the psychological profiles, including but not limited to the internal memoranda prepared by [Chief Psychiatrist], [DMSS], and [DDS] regarding the two psychological profiles. Testimony has established that memoranda for the record were written detailing the concerns about Hunt. Director Helms has testified that he has no knowledge of same.
- c. The so-called "psychological profile file", presently located in the office of the Director of Medical Services, CIA, containing all materials regarding the preparation of the psychological profiles. Note: This file was previously requested, as well as the materials described in parts (a.) and (b.) above. By letter dated March 8, 1974, Director Colby indicated that he would release this information to the oversight committees only.

### TAPES

1. Log maintained by the Office of Security with reference to known tapings of which transcripts are thought to be available. This has been previously requested, but not furnished.
2. All logs, memoranda, or notations reflecting communications into or out of the Office of Security for the time period from June 16, 1972 to June 22, 1972. This information has been requested but it is available to the Senate Armed Services Committee only. Such information is critical to any determination as to the chronology of Watergate notification and related actions.
3. Access to the five inch reel of tape labeled, "McCord Incident/18-19 June 1972" which was found in the Office of Security on March 1, 1974. It is not known what is contained in this tape, but its importance is obvious.

### MISCELLANEOUS

1. Access to the special Watergate file formerly maintained in the Office of Security. This file was requested as early as mid-January, 1974, and its existence at that time was denied by legislative liaison. Sworn testimony has since confirmed existence of such a file; now under control of the Inspector General.

2. Any and all CIA files relating to the activities of E. Howard Hunt. This was requested in January of 1974 and was ignored by the Agency. We are aware of at least an executive registry file in which information on Hunt was placed in 1971 and suggest that this would be a good starting point for compliance with this request.
3. Any and all CIA files relating to G. Gordon Liddy during the time frame of January, 1970, to the present. When this request was made in January of 1974, the staff was advised that CIA information on Liddy was limited to sensitive briefings, the subject matter of which was beyond the purview of this Committee.<sup>2</sup> Files relative to these briefings need to be examined, particularly in light of the time period of same, i. e., August and September, 1971.
4. Any and all CIA files pertaining to attorney [name deleted at Agency request] and/or his law firm from the period January 1971 to the present. While the CIA has confirmed that [attorney] is a former case officer and that [potentially significant information deleted at agency request] during the period of time that [attorney] served as counsel for the Committee to Re-Elect the President,<sup>3</sup> contact reports and memoranda must be reviewed in raw form before a determination can be made as to the impact of the aforementioned facts.
5. Office calendars for Director Helms, General Cushman, and the Deputy Director of Plans for the time frame from January of 1971 through June of 1973. These calendars have been previously requested and are critical to a thorough investigative analysis of knowledge available to these respective officials at the critical times. These calendars have not been made available to this staff for review.
6. All records pertaining to Agency financing of Egil Krogh's activities, as evidenced by sworn testimony before this Committee. Also, interviews of superiors of [Secretary to Chief, CIA Narcotics Control Group].<sup>4</sup>

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<sup>2</sup>See CIA's response to this inquiry regarding Liddy, Supplemental Materials, Volume II, Tab 13.

<sup>3</sup>See CIA's response to this inquiry regarding [attorney], CIA Supplemental Materials, Volume II, Tab 14; Volume IV (CIA Memorandum, June 28, 1973).

<sup>4</sup>See Executive Session Testimony of [Secretary to Chief, CIA Narcotics Control Group], March 2, 1974, (transcription not presently available).

7. Interviews of [Chief, EEAB], (former outplacement director), [Agency employee], [Agency employee], [former Agency employee], [former Agency employee] and attorney [former Agency employee], all of whom were either in the employ or were former employees of the Agency at the time they discussed Hunt operation activities (including entry operations) during 1971 and 1972.
8. A review of all CIA activities (regardless of nature or degree of support) in Mexico during the calendar year, 1971-1972. This information, which is relevant to an objective assessment of CIA's post-Watergate posture and pre-Watergate potential involvement, has been requested (to an extent consistent with national security) since February 1, 1974.<sup>5</sup>
9. The "Pennington File," which was previously requested and made available only to the House Armed Services Oversight Committee. This file contains memoranda and other documents dealing with the activities of the CIA operative, Pennington, who was alleged to have participated in the burning of documents in the McCord home after the Watergate break-in. This file also contains data regarding the "domestic activities" of Pennington, and the CIA has made it known that there are "gaps" in this file during certain relevant time periods.
10. At the conclusion of his Executive Session on Friday, March 8, 1974, Ambassador Helms testified concerning an individual in a peculiar position to know the activities of both the Agency and the FBI. While Helms knew of no Watergate information in this individual's possession, other evidence suggests the contrary. Consideration should be given to interviewing this individual who has already commenced preparation of a Watergate-related memorandum in response to a previous request by the staff.<sup>6</sup>

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<sup>5</sup>The CIA, through its legislative liaison, has confirmed that Mexico is an "important country" to the CIA, but has refused to provide any other information regarding CIA Mexican activities during the 1971-72 time period.

<sup>6</sup>See CIA Supplemental Material, Volume II, Tab 18.

11. Michael Mastrovito of the Secret Service should be interviewed concerning his Agency communications on June 17, 1972. Agency documents indicate that Mastrovito agreed to downplay McCord's Agency employment; that Mastrovito was being pressured for information by a Democratic state chairman; and that Mastrovito was advised by the CIA that the Agency was concerned with McCord's emotional stability prior to his retirement.<sup>7</sup>

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<sup>7</sup>See CIA cable traffic shortly after the Watergate break-in, CIA Supplemental Material, Volume VI.

CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

28 June 1974

Honorable Howard H. Baker, Vice Chairman  
Select Committee on Presidential Campaign Activities  
United States Senate  
Washington, D. C. 20510

Dear Senator Baker:

My staff has advised me of the rather extensive discussions they have had with your staff with respect to the staff report which is to be released on your "CIA Investigation." This report presumably encapsulates the results of the process we started last January when I assured you of our complete cooperation. In subsequent meetings, we provided information, some of extreme sensitivity, so that you could evaluate data from other sources. There then ensued an almost continuous exchange of information between our respective staffs. Eventually, in this spirit of cooperation, 24 Agency witnesses appeared before your staff on a voluntary basis to answer questions under oath. Our contribution consisted of over 700 CIA documents and 2,000 pages of testimony.

We have received a revision of the staff report with a request that it be sanitized by bracketing material to be deleted on security grounds. I understand that your staff is preparing supplements to the report which are to be submitted to us for sanitization and comment, and that the report and the supplements will be made a part of the Committee's open record although they will not be included in the Committee's formal report. It is my further understanding that the transcripts and ten volumes of Agency material will not be released but will be removed from Committee records and placed under seal in an appropriate repository and will not be released without CIA approval.


It had been my hope that sufficient concrete evidence would have been produced to assure you that CIA had no prior knowledge of the Watergate or Ellsberg break-ins or coverups. However, when I reviewed the summary staff report submitted to me on 1 April, I realized that you had not been so assured. In some 160 comments we attempted, by citation to the evidence available to us, to communicate our thoughts in this respect. I have now been advised that practically none of our comments which were prepared on 3 April have been reflected in the revision of the staff report. If the revised report is released with its present thrust it implies that there is reason to believe that the Agency and its officers and employees had prior knowledge of and were wittingly involved in the break-ins and the coverup.

I recognize that you have every right to subscribe to conclusions in the staff report which are at variance with those I have drawn from the evidence presented during your investigation, which I have developed as a result of my own intensive internal investigations and which has been reviewed independently by other investigative bodies within both Houses of the Congress, and by the Special Prosecutor and the Federal Bureau of Investigation.

It thus appears we have come to differing views on this subject. If the report is made available to the public in the form proposed, I am concerned that the Agency can be the subject of what I deem to be unjustifiable conclusions that Agency officers or employees were knowingly involved in the break-ins in the Watergate or Dr. Fielding's office or subsequent coverups. In such case, I may feel it necessary to take an appropriate public position to assure that the conclusions from my investigation and the results of other investigations are also known.

I am returning herewith the revised report "CIA Investigation" which was given a member of my staff by Mr. Liebengood in the late afternoon of 27 June 1974 without repeating our substantive comments but with security deletions.

Sincerely,

  
W. E. Colby  
Director

Enclosure

cc: Chairman Sam Ervin



SAM J. ERVIN, JR., N.C., CHAIRMAN  
 HOWARD H. BAKER, JR., TEX., VICE CHAIRMAN  
 HERMAN S. TALMADGE, GA. EDWARD J. GURNEY, FLA.  
 DANIEL K. INOUE, HAWAII LOWELL P. WEICKER, JR., CONN.  
 JOSEPH M. MONTOYA, N. MEX.

SAMUEL DASH  
 CHIEF COUNSEL AND STAFF DIRECTOR

FRED D. THOMPSON  
 MINORITY COUNSEL  
 RUFUS L. EDMISTEN  
 DEPUTY COUNSEL

## United States Senate

SELECT COMMITTEE ON  
 PRESIDENTIAL CAMPAIGN ACTIVITIES  
 (PURSUANT TO S. RES. 42, 910 CONGRESS)

WASHINGTON, D.C. 20510

July 1, 1974

Mr. W. E. Colby  
 Director  
 Central Intelligence Agency  
 Washington, D.C. 20505

Dear Bill:

I appreciate your letter of June 28 and the accompanying staff report with security deletions. All Agency security deletions have been complied with and your recommended language has been substituted where appropriate.

Neither the Select Committee's decision to make this report a part of our public record nor the contents of the report should be viewed as any indication that either the Committee or I have reached conclusions in this area of investigation. On the contrary, the seventh section of the report suggests several areas of further inquiry that we recommend be carefully undertaken by the appropriate oversight committees or by the joint committee for the oversight of intelligence activities, which I plan to recommend as part of my contribution to the Committee's report.

With regard to the transcripts and ten volumes of Agency materials, it is my desire that the Agency sanitize these materials in order that the Committee can make a determination as to how the materials can be used. I am sure we can reach a satisfactory resolution of this question.

Sincerely yours,



Howard H. Baker, Jr. *HB*

PRELIMINARYCIA COMMENTS ON SENATOR BAKER'SREVISED STAFF REPORT "CIA INVESTIGATION"Robert Bennett and the Mullen CompanyFootnote 18

The testimony of Agency witnesses indicates that the Agency had no interest or involvement in any of the aforementioned activities of Mr. Bennett and no evidence to the contrary has been made available to the Agency.

Footnote 23

Bennett initially requested full reimbursement. The CIA's decision for payment of half the fee was predicated on the fact that cover placements had complicated matters for the Mullen Company. The fact that Bennett was serving as liaison between Hunt and Liddy was not disclosed to CIA.

Footnote 28

CIA has explained that efforts to terminate projects and move assets subject to compromise as a result were closely held even within the Agency in order to protect these efforts. The "Western Hemisphere flap," of course, had no relationship to Watergate.

Pennington MatterFootnote 5

The next morning the Director of Security reversed this decision and the Security Watergate files were made available for review. He has testified that he was first aware of the reports concerning the burning of documents at Mr. McCord's home on 20 February 1974 and caused a memorandum about the incidents to be drafted for reporting to the Director. This memorandum was made available to the Director on 22 February and was immediately made available to this and other appropriate Committees.

Footnote 6

The CIA never directed Pennington to engage in activities in violation of the CIA's charter.

Footnote 14

This arrangement was established to assure that sensitive and classified information concerning operations and personnel would be held at the top level of the Agency and discussed with only the top levels of Justice and the FBI. The Agency was aware that there were leaks in the FBI field office which was the routine contact point for the Office of Security.

TapesFootnote 8

The CIA undertook a massive effort to reconstruct the record, and among other things reviewed in excess of 700,000 visitor passes to the Agency's Headquarters Building, reviewed the appointment calendars of the officers involved and the admittedly inconclusive tape logs themselves, and no evidence conflicting with the testimony of Ambassador Helms and his secretary was discovered. CIA has reviewed with Senator Baker and two of his designees the information produced as a result of this reconstruction, including the actual logs.

Hunt-TSD Support-Ellsberg ProfileEnd of first paragraph

There is no Agency record or testimony indicating any prior Agency awareness of the Fielding or the DNC breakins or the Chappaquiddick investigation.

Footnote 1

Immediately following the Watergate breakin the Agency reported to the FBI on the provisioning of Hunt and a then unknown associate, later identified as Liddy.

Footnote 14

"Mr. Edward file" material has been made available for the Committee's review, and the Committee already possesses the relevant material.

Footnote 22

At that time, the name Dr. Fielding had no meaning to the Agency personnel involved.

Footnote 24

The decision to cut off support to Hunt was made in the face of escalating demands and was not based upon the development of the photographs.

Immediately following Footnote 26

The "recent testimony and secret documents" referred to were made available to congressional committees as far back as May of 1973.

Footnote 31

The basic memoranda of the psychiatrist's superiors are contained in CIA materials originally provided to the Committee in the summer of 1973.

Footnote 34

Ambassador Helms has testified that he had no knowledge of E. Howard Hunt's role in the profiles. The former Director of Security for CIA has testified that he was never advised of Hunt's role in the profiles. Further, there is no other Agency official who had knowledge of both the provisioning of Hunt and Hunt's involvement in the preparation of the Ellsberg profile..

Hunt - Martinez - CIAFirst paragraph after Footnote 1

There is no evidence within CIA that the Agency possessed any knowledge of Hunt's recruitment of individuals to assist in the Watergate or any other breakin.

Footnotes 14 and 15

During this period of Martinez' service with the CIA, he was a casual informant. Testimony shows that the Agency's general interest was to assist him in his efforts to obtain private employment at which time his relationship would be completely severed. Martinez' general reporting requirement involved Cuban exile maritime activities. In addition, in support of requirements of the Secret Service, he, along with other local informants were to be alert to information relating to activities of Cuban exile groups as they might affect the Miami political conventions.

Immediately following Footnote 29

CIA has supplied information that there was an error in the original report received by the Agency on the description of the car. That error was subsequently corrected and immediately reported to the FBI at the Headquarters level in Washington.

Action RequiredTapesNumber 3

The transcripts of the only relevant Watergate-related material on this tape have been made available to the Committee, and the Committee has been advised that no other relevant data exists on this tape.

MiscellaneousNumber 4 - Footnote 3

CIA did not have any contact with Mr. Paul O'Brien after he left its employ in 1952.

Number 6 - Footnote 4

As a member of the Cabinet Committee for International Narcotics Control (CCINC), CIA was asked to assist in supporting the foreign travel of the staff of the Executive Secretary who, at that time, was Egil Krogh. Thus, as has been testified to earlier, the only support provided to Mr. Krogh, in his capacity as Executive Secretary of the CCINC, was for the purpose of foreign travel and the funds were accounted for in the proper manner.



MR. DANIEL K. INOUE

U.S. SENATOR FROM THE STATE OF HAWAII

and

MR. JOSEPH M. MONTOYA

U.S. SENATOR FROM THE STATE OF NEW MEXICO

Despite the fact there is no unanimity among the members of the committee as to the constitutionality, advisability and practicality of providing public financing of Presidential and other Federal campaigns, there is a consensus in the U.S. Senate and among the public at large in favor of such reform of our electoral system. We count ourselves part of that consensus.

The testimony and evidence made public during our hearings document the inherent potential for abuse and corruption in any campaign financing system that is dependent upon a small number of large private contributors. Unfortunately, a cure for these abuses which would place strict limitations upon campaign contributions and expenditures would produce an equally unfair system. Such limitations have the inevitable effect of increasing the existing advantages of the major political parties and well-known individuals—that is, incumbent officeholders—who have greater access and appeal to donors, over minor parties and unknown individuals who wish to enter the political arena.

An open, fair and honest campaign financing system must combine effective and timely public disclosure of the sources of campaign dollars, realistic limitations upon contributions and expenditures in campaigns and an efficient method for increasing citizen participation in the financing of campaigns.

In his State of the Congress Address of February 6, 1974, Majority Leader Mansfield stated, "We shall not finally come to grips with the problems (of our campaign methods) except as we are prepared to pay for the public business of elections with public funds." The Senate Committee on Rules and Administration, in its favorable report on S. 3044—the Federal Election Campaign Act Amendments of 1974—which passed the Senate on April 11, 1974 by a 53 to 32 vote, stated: "The election of Federal officials is not a private affair. It is the foundation of our Government." Senate approval of a comprehensive system of public financing of Federal elections as shown in the vote for S. 3044 is but the latest in a number of successful legislative measures designed to bring public dollars into the electoral arena in order to offset the corrupting reliance on large private contributors.

For public financing of campaigns is not a new idea. In fact, it is not new law. Public financing measures are now on the books at the national level—in the form of the dollar tax checkoff and tax credits



and deductions for small political contributions—and in many States. The constitutionality of these measures stands unchallenged.

Congress adopted both the checkoff and the tax incentive in 1971. It is important to look at the actual results since then, for critics of public financing have sometimes attempted to interpret the early response as demonstrating lack of popular support for the idea. We believe that the opposite is in fact true: in 2 short years the American people have shown that, given the chance, they are very willing to support this important innovation.

In 1972, the first year it was in effect, 3.1 percent of all tax returns filed were "checked off," producing the first \$3 million to \$4 million for the new Presidential election campaign fund. Anyone who says this was an inauspicious beginning must be reminded that the checkoff was in effect hidden on a separate tax form, was unseen by most taxpayers, and that virtually no public education was undertaken to explain the new system and how it worked.

As a result of congressional pressure, the IRS remedied this major flaw last summer, requiring that the checkoff be placed visibly on page 1 of the IRS form 1040 for 1973 and thereafter. In addition, after a court challenge, citizens who failed to use the checkoff in 1972 were given a second chance. As a result, a special makeup checkoff box was placed on the 1973 returns.

The response? More than 15 percent of the 1973 returns used the checkoff designating \$17,575,054 for the Presidential fund. This 15 percent equals over one-quarter of those who actually voted in the 1972 Presidential election. The current IRS projections indicate that there will ultimately be at least \$29 million in the fund by the end of the year. And, if taxpayers continue to check off at a rate no higher than this year, it will mean at least \$64 million in the fund in time for the 1976 Presidential election. Moreover, taxpayers are rapidly becoming aware that dollars checked off do not mean additional taxes. Instead they represent an authorization for Congress to appropriate for the Presidential election campaign fund the amount checked off.

Given the degree of public cynicism about all politics this spring, a 15 percent checkoff rate may well represent the bottom rather than the top line of public support. If the number of those checking off increases, as we are convinced it will, with greater citizen education and understanding, so will the amount of money appropriated by the people to promote open, honest elections. The voluntary fund is clearly an excellent way to provide a broader system of public financing for qualified Federal candidates.

Tax incentives and, if necessary, general revenues are additional and legitimate sources for public campaign funding. We do not share the concern expressed by the majority of the committee over using Treasury funds for public elections. Tax credits and deductions are methods of public financing of campaigns that merely bypass tax collection. We are not adverse to continued or expanded use of tax incentives to aid in paying for national campaigns, and after further study the Congress may well wish to change the Internal Revenue Code to strengthen inducements for campaign contributions.

We do believe that any candidate or party which receives public funds should be required to manifest significant public support. A system of matching private contributions with public money, such as

provided in S. 3044 meets this requirement. It also maintains the element of individual initiative that is so essential to the democratic process.

We have only to look around us to see that public financing is a major new political issue, that it may become the most important new aspect of our continuing experiment in democracy. The current activity of many public officials and citizen organizations in debating methods and mechanism of public financing indicates a realization that not all, or even most, of the problems of our current election system can be solved by more criminal laws, more controls and limits on political activity.

We are faced with a need to change not just the rules but the framework within which our elections and campaigns are conducted. Public financing is no panacea itself, of course, and its staunchest advocates are the first to note that it raises its own new and different questions. What public financing can do, however, is move us one step closer toward that goal which we must always and continually pursue—open, fair, honest elections in which the ideas of citizens and candidates compete regardless of the size of their pocketbooks. With the energy and good faith this country brings to its biggest problems, we can devise an equitable system of public financing that will help treat an illness, evident in the Watergate tragedy, that goes to the heart of this democracy.



MR. EDWARD J. GURNEY

U.S. SENATOR FROM THE STATE OF FLORIDA

I am in basic agreement with the thrust of the report. However, I do point out that because the bulk of the report came in during the July 4th recess of the Senate, and the last portions within hours of the deadline time of submission of these views, there has not been sufficient time to review the report thoroughly.

There are observations and judgments in the report with which I disagree and I feel sure that there would be other points of disagreement had there been time to go over this voluminous 3,000 page report.

The investigation clearly reveals that there was a scheme and an organized effort, participated in by persons in high official places in this administration, to obtain political intelligence by breaking and entering into Democratic National Committee headquarters. There is, however, a dispute in the evidence as to who was responsible for putting this plan into operation and who knew about the Watergate break-in and when. This is a matter that should be determined by the judicial branch of our Government.

The testimony and documents presented to the committee also clearly shows that there was a conspiracy to coverup the Watergate break-in and that certain persons at the White House were involved in that conspiracy.

The evidence is clear as to the part played by some characters in this tragedy and unclear as to what others may have done. It was not the mission of the Select Committee, pursuant to Senate Joint Resolution 60, to place responsibility for individual criminal acts.

The committee had an important responsibility in its efforts to uncover the salient facts surrounding the Watergate break-in and cover-up and other improper activities occurring in the 1972 election campaign. By exposing these unethical, improper and illegal political campaign practices to the American electorate, we have provided the necessary groundwork to bring about a strong demand for needed political campaign reform. As a consequence, the Senate has already enacted a far reaching campaign reform bill which is now under consideration in the House.

Despite reservations which many of us held at the outset and the possibilities of prejudicial effect upon subsequent criminal actions, I believe that the televising of the hearings served a very useful purpose. Overnight the whole country became jurors as well as spectators in the unfolding drama. The American people were permitted to observe everything which transpired—the questions and answers, the witnesses' responses, the actions and attitudes of the panel of Senators and their staffs. I think, too, that by televising our proceedings we counteracted prejudicial selectivity by the media of the material presented to the committee.

I do believe, however, that we spent too much time on the hearings, especially on testimony from witnesses of minor importance to the investigation, and on certain matters, like the burglary of the office

of Ellsberg's psychiatrist, which were not germane to our inquiry. It is obvious that, while it could not confine itself to strict evidentiary rules, the committee did permit too much unsubstantiated evidence to enter the record. Because of the impact of the hearings upon millions of Americans, who watched their progress on television or read newspaper accounts of what was happening, I believe that we should have exercised greater discretion in handling hearsay testimony.

I was also troubled by the continual leaking of information from the committee. It was not unusual to find that matters which transpired in executive session appeared in the headlines the next morning. Permitting highly prejudicial matters to be disclosed to the media reflected badly upon the manner in which the United States Senate conducted this important and highly sensitive investigation.

I agree emphatically that political spying should be purged from the American political scene. I consider that the committee's exposure of the machinations involved in the Watergate affair will help to eliminate "dirty tricks" as an accepted political campaign practice. It must be emphasized that, from our own political experience and from the evidence we have received concerning this one notorious political affair, we know that this administration or the Republican Party does not have a monopoly on "dirty tricks" or other illegal campaign activities. It should be pointed out and it is clear from the evidence that the abuses of 1972 were committed by a few misguided individuals, overambitious and overzealous in their efforts on behalf of certain candidates and causes. The wrong-doing was not the work of the Republican Party or its professional campaign staff. The vast majority of people who worked in the 1972 Presidential campaigns, Republican or Democrat, worked in honorable fashion for their candidates with no knowledge nor use of any Watergate type activities.

I have strongly supported efforts to reform the campaign laws, and the experience of the recent Presidential campaign demonstrates the need to enforce these laws consistently and strenuously. The most pervasive abuse of 1972 was the careless handling of cash contributions, which should be barred from future elections. This matter was common to both political parties, but it was to a lesser extent a problem for the Democrats since the Republican Party held the White House and was heavily favored to win reelection, and so inevitably attracted more money.

I favor a simplified codification of Federal and State election statutes to which the candidates and the public can readily refer. We have enough laws on the books to deal with illegal campaign practices, but we desperately need a handy guidebook for campaign staff members of candidates for public office.

I am totally opposed to the committee's recommendation for a Public Attorney with prosecutorial powers outside of the executive branch of the Government. The President of the United States must be held responsible for the business of the executive branch, including prosecution of criminals. It is his constitutional duty—and his alone—to faithfully execute the laws of the land. I oppose the creation of a czar who could literally hound and intimidate governmental officials in the proper exercise of their responsibilities. Criticisms directed at certain officials for their handling of the Watergate investigations reflect dissatisfaction with individuals rather than with institutions. I do favor, however, the establishment of an office within the Department of Jus-

tice charged with investigating alleged campaign law violations and prosecuting wrongdoers. (See Attachment A for legal argument.)

Finally, I must add that I was utterly appalled by the revelations of Watergate, and I deplore the performance of individuals employed by or connected with the Committee To Re-Elect the President which the committee's hearings has brought to light. Of course, we cannot legislate goodness, reform mankind or alter the ethical standards of individuals. But I believe that the Select Committee's findings relative to the 1972 Presidential campaign will profoundly affect the actions and attitudes of political partisans in future campaigns. I hope that a genuine "post Watergate morality" will prevail in the political life of our country. I hope, too, that the committee's investigations of the Watergate break-in and coverup and the prosecutions that have been generated by our inquiry will deter future administrations, Republican or Democrat, from indulging in illegal practices and improper conduct in their quest for victory and political power.

I wish to express my personal appreciation to my colleagues on the committee with whom I have been fortunate to labor in this important task and to whom I have been able to express freely my views over the past 16 months.

## ATTACHMENT A

### LEGAL ARGUMENT AGAINST THE ESTABLISHMENT OF AN INDEPENDENT PUBLIC ATTORNEY

The recommendation for a Public Attorney with prosecutorial powers outside of the executive branch is unprecedented in our constitutional history. Its unprecedented nature is a forceful reminder of the constitutional problems inherent in such a blend of the traditional separate roles of the prosecutor and the judiciary. It violates the principle of separation of powers. It is at odds with the judicial function of the Federal courts as provided in Article III and it does not comport with due process.

The Constitution provides in Article II, Section 3 that the President is charged with the responsibility of insuring that the laws of the United States are faithfully executed. Thus the function of conducting legal proceedings on behalf of the United States cannot be transferred to a prosecutor who is wholly independent of the executive branch. Professor Paul Bator of the Harvard Law School has written:

The Constitution vests executive power in the President and commands him to take "care that the laws be faithfully executed." The enforcement of the Federal criminal law is a central part of the function of executing the laws. For the Congress or anyone else to purport to create an agency wholly independent from the executive branch with power to enforce the criminal law would probably be unconstitutional. N.Y. Times, May 5, 1973.

In *Ponzi v. Fessenden*, 258 U.S. 254, 262 (1922), the Supreme Court rules that the prosecution of offenses against the United States is an executive function stemming from the power vested in the President by Article II of the Constitution, the discharge of which is committed to the Attorney General:

The Attorney General is the head of the Department of Justice . . . He is the hand of the President in taking care that the laws of the United States in protection of the interests of the United States in legal proceedings and in the prosecution of offenses be faithfully executed.

Similarly, in *Springer v. Philippine Islands*, 277 U.S. 189, 202 (1928), the Supreme Court declared that "the authority to enforce laws or to appoint the agents charged with the duty of enforcing them" are executive functions. See also 2 Op. A. G. 482, 487-493 (1831).

In *United States v. Cox*, 342 F. 2d 167 (5th Cir.) cert. denied, 85 S. Ct. 1767 (1965), the Court of Appeals held that a United States Attorney could not be required by a court to sign an indictment initiating the prosecution of offenses against the United States. In addressing the constitutional authority of the executive branch in the enforcement of criminal laws, the court reiterated the principle of *Ponzi, supra*, that "the Attorney General is the hand of the President in taking care that the laws of the United States in legal proceedings and in the prosecution of offenses, be faithfully executed." 342 F. 2d at 171. It then considered the role of the U.S. Attorney in discharging this executive power:

The U.S. Attorney is an executive official of the Government, and it is as an officer of the executive department that he exercises a discretion as to whether or not there shall be a prosecution in a particular case. It follows, as an incident of the constitutional separation of powers, that the courts are not to interfere with the free exercise of the discretionary powers of the attorneys of the United States in their control over criminal prosecutions.

Thus, the court ruled that to transfer the power which is committed to the executive to determine whether to prosecute to another body (the grand jury) would be in derogation of Article II which grants to the President all "executive power" and vests in him the responsibility to take care that the laws be faithfully executed. Similarly in *Newman v. United States*, 382 F. 2d 479 (D.C. Cir. 1967), the court held that the lower court had no authority to review decisions of the prosecutor and that "it is not the function of the judiciary to review the exercise of executive discretion" 382 F. 2d at 487. Rejecting the suggestion in a concurring opinion that "irrational" decisions might be reviewable, the court said:

The Constitution places on the executive the duty to see that the "laws are faithfully executed" and the responsibility must reside with that power. *Id.* n. 9.

The same principle applies with equal force to prohibit transfer of the power to prosecute offenses to an independent prosecutor or commission outside the executive branch.

Finally, it should also be noted that the resolution authorizing the appointment of a Special Prosecutor during the Teapot Dome scandal provides no precedent for the appointment of Public Attorney. Prior to the introduction of the resolution in that instance, President Coolidge had suggested the appointment of special counsel, B. Naggel, *Teapot Dome*, p. 92, and the language of the resolution itself recognized the authority of the President to make the appointment. S.J. Res. 54, February 8, 1924.

## MR. LOWELL P. WEICKER, JR.

U.S. SENATOR FROM THE STATE OF CONNECTICUT

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### A STILLNESS

In the early 1970's, several independent events took place in the United States of America. On the surface they appeared to lack a common bond.

In June of 1969, a Louis Harris poll found that 25 percent of all Americans felt they had a moral right to disregard a victim's cry for help. Over the next several years, this mood took the form of countless incidents of looking the other way when men and women were assaulted and murdered in full view of entire neighborhoods.

On May 4, 1970, at Kent State University in Ohio, a group of students who refused an order to disperse were fired upon by the National Guard, killing William Schroeder, Sandy Scheuer, Jeffrey Miller, and Allison Krause, and wounding nine others. Ten days later, at Jackson State University in Mississippi, police who had been called in to protect firemen from violence, opened a 28-second fusillade into and around a dormitory, killing Phillip Gibbs and James Earl Green, and wounding 12 others.

During 1971, a decision was reached by the administration to conduct the President's reelection campaign with a special committee totally separate and insulated from the political party which would renominate that President.

In early 1972, a young radio reporter in Miami stood outside a supermarket trying to get people to sign a copy of the bill of Rights. Seventy-five percent refused, many saying it was Communist propaganda.

In February of 1972, it was revealed that International Telephone & Telegraph had allegedly offered a campaign contribution of \$400,000 in return for the Justice Department dropping an antitrust suit against ITT. The suit was dropped on Presidential order, but when the Attorney General was questioned about the President's role by a Senate committee in March, he lied.

On June 17, 1972, burglars employed by the Committee to Re-Elect the President were arrested inside the headquarters of the Democratic National Committee with bugging equipment and large sums of cash.

In December of 1972, having failed to obtain congressional approval for a reorganization of the Cabinet, the administration moved autonomously to establish three or four "supersecretaries" and to place various executive office employees in key sub-Cabinet posts. The obvious goal was to create a White House-directed network of decisionmaking and reporting quite apart from the formal Cabinet structure which remained subject to congressional scrutiny.



In February of 1973, the White House held a peace-with-honor reception to celebrate the end of the Vietnam war. Only those Congressmen who had supported the President's Vietnam policies were invited, implying that those who had questioned our involvement in Vietnam were either against peace or were dishonorable. Some of these incidents were matters of life and death and were well publicized. Others were matters of principle and were little noticed at the time.

In each instance a significant outrage had taken place.

What was common to all?

In each instance no one complained.

A constitutional stillness was over the land.

## THE UPROAR

American decency, idealism, honesty and reverence for the Constitution that some had thought bought off has been stirring and reasserting itself for many months now.

Yes, a few still cry treason when questions are asked.

A few still espouse the end as justifying the means.

A few still goggle at an American title rather than the title of American.

But it was only yesterday, June 17, 1972 to be specific, that today's few were part of a large American majority.

Why the turnaround?

The truth!

Because Frank Wills discovered taped doors at the Watergate, America's doors didn't close in all our faces.

## CONSTITUTIONAL DEMOCRACY IN THE ERA OF WATERGATE

For this Senator, Watergate is not a whodunit.

It is a documented, proven attack on laws, institutions, and principles.

The response to that attack was and is a Nation of laws at work, determining whether men shall prevail over the principles of a constitutional democracy. It has been and will be the testing of a great experiment in government begun some 200 years ago.

Laws, institutions, and principles were squarely before this committee, to be debated, probed and documented, in order to assert remedies and reassert time-honored concepts. Guilt or innocence was not an issue. This was a fact-finding body; it was a legislative body; and those duties go to the heart of what Watergate was all about.

In keeping with the committee's duties, this is a report of facts and evidence, leading to legislative recommendations. To document the abuse of laws, institutions, and principles, the facts and evidence are presented, first, as they bear on the basis of our laws, the Constitution; second, as they relate to the institutions of our Government; and third, as they affect the principles of our political system.

## I. THE CONSTITUTION

One of the most disturbing facts about the testimony presented to this committee is that so much of it went relentlessly to the heart of our Constitution.

To appreciate what happened to the Constitution, it is useful to divide the seven articles and 26 amendments into substantive versus procedural provisions. The substantive sections lay out rights, powers, and duties. The procedural areas address somewhat more technical and administrative matters. The important point is that the essence and strength of the Constitution springs from its substantive areas, primarily the first three articles, the first 10 amendments and the 14th amendment.

Evidence presented to this committee can and will demonstrate that every major substantive part of the Constitution was violated, abused, and undermined during the Watergate period.

It is a record built entirely on the words of the participants themselves. Tragically, it focuses on the most prodigious article of the Constitution, article II, which sets out the powers and duties of the Executive. It includes the most significant individual rights guaranteed by the first 10 amendments, our Bill of Rights. And it encompasses the Fifth and 14th amendments' guarantees of due process of law, the foundation of our system of justice.

### A. THE EXECUTIVE

Of all the issues confronting the Constitutional Convention at Philadelphia, the nature of the Presidency ranked as one of the most important. Indeed, the resolution of that issue is often cited as one of the most significant actions taken.<sup>1</sup>

Most State constitutions prior to that time had weak executives and strong legislatures.<sup>2</sup> The decision to create a President, as opposed to plural administrators,<sup>3</sup> was a reluctant recognition of the advantages of a strong executive.

Nevertheless, the convention took steps to contain presidential power. Only after deciding the method of selecting a President, his term, mode of removal, and powers and duties did the convention agree to the concept of a strong President.<sup>4</sup>

<sup>1</sup> Congressional Research Service, Library of Congress, "The Constitution of the United States of America" (1973), p. 429. Background on the Convention from C. Thach, "The Creation of the Presidency, 1775-89" (Baltimore: 1923).

<sup>2</sup> As a result of experience with the royal governors, not only did most States have weak executives, but the Articles of Confederation (which was the agreement by which the National Government was functioning at the time of the Constitutional Convention) vested all powers in a one-body Congress. C. Thach, chs. 1-3. The Virginia Plan, which was the basis of discussion, offered a weak executive, with only power to "execute the national law" and "to enjoy the Executive rights vested in Congress." *Id.*, ch. 4; Congressional Research Service, p. 430.

<sup>3</sup> It was not until the closing days of the Convention that there was any assurance the executive would not be tied to the legislature, devoid of power, or headed by plural administrators. Although the discussion about the executive opened on June 1, 1787, as late as September 7, 1787, 8 days before the final Constitution was ordered printed, the Convention voted down a proposal for an executive council that would participate in the exercise of all the executive's duties. M. Farland, "The Records of the Federal Convention of 1787" (New Haven: 1937), 21 and 542.

<sup>4</sup> The eventual basis of article II was the New York Constitution. On June 1, 1787, James Wilson moved that the Executive should be one person. A vote on the Wilson motion was put off until the other attributes of the office had been decided. The decision resulted largely from experience with the Articles of Confederation "that harm was to be feared as much from an unfettered legislature as from an uncurbed Executive and that many advantages of a reasonably strong Executive could not be conferred on the legislative body." Congressional Research Service, p. 430.

This bit of history, indicating that the delineation of the President's office and powers preceded the creation of his position in the constitutional scheme, is quite important. It demonstrates that Executive power is to be exercised within the framework of the Constitution, and particularly, within the guidelines of article II, which lays out the powers and duties of that office.

This is much of what Watergate is all about, and it bears a close look at article II.

The issue at stake is the exercise of potentially awesome Presidential power. As to that issue, article II contains two points of significance.<sup>5</sup> First, its opening words state: "The executive Power shall be vested in a President of the United States of America."<sup>6</sup> This grant of Executive authority, with no words of limitation, has, from the time of Jefferson, been the basis for expanding the Presidential office and activities.<sup>7</sup>

However, the initial broad authority is offset by a second significant factor, the enumeration of Executive powers later in article II.<sup>8</sup> These declare in part that the President is to be Commander-in-Chief, make treaties, appoint ambassadors and other officers, grant pardons, and take care that the laws are faithfully executed.

It is worth noting that experience has eventually placed limits on the general powers. The President has been allowed, as a practical matter, to exercise those additional powers that fall naturally within his range of activities.<sup>9</sup>

The important point, however, is that no President has been, or can be, allowed to conduct the executive branch in conflict with the Constitution taken as a whole, and certainly not in conflict with express sections of the Constitution, such as the Bill of Rights, or article I (the legislature), or article III (the judiciary). This then is the proper context for examining facts.

Article II of the Constitution, by which the Presidency was created, was violated from beginning to end by Watergate.

There is massive evidence of misuse of the awesome general powers that reside in the executive department.

There is equal evidence documenting abuses of the enumerated duties.

### 1. GENERAL POWERS AND DUTIES

The facts show an executive office that approved a master intelligence plan containing proposals that were specifically identified as illegal,<sup>10</sup> that proposed setting up a private intelligence firm with a

<sup>5</sup> According to Alexander Hamilton, "The second article of the Constitution of the United States, section first, establishes this general proposition that 'the Executive power shall be vested in a President of the United States of America.' That same article in a succeeding section, proceeds to delineate particular cases of executive power." 32 "Writings of George Washington." J. Fitzpatrick ed. (Washington: 1939) 430; 7 "Works of Alexander Hamilton," J. C. Hamilton ed. (New York: 1851) 76.

<sup>6</sup> U.S. Constitution, art. II, sec. 1.

<sup>7</sup> The practice of expanding Presidential powers has continued steadily, but was irrevocably set when the "Strict constructionists" came to power in 1801 and did not curb Executive power, but rather enlarged it. The modern theory of Presidential power was conceived by Hamilton, but it is interesting to note his qualification "that the executive power of the Nation is vested in the President; subject only to the exceptions and qualifications, which are expressed in the instrument." 7 "Works of Alexander Hamilton," 80-81: see Congressional Research Service, 433 and 437.

<sup>8</sup> U.S. Constitution, art. II, secs. 2-4.

<sup>9</sup> See note 7, *supra*.

<sup>10</sup> See exhibit 35, 3 *Hearings* 1319. This is a plan submitted by Tom Charles Huston to the President and approved in July 1970. Presidential statement, May 22, 1973. Pt. D, entitled "Surreptitious Entry," reads: "Use of this technique is clearly illegal: It amounts to burglary." *Id.* at 1321.

"black bag" or breaking and entering capability as secret investigative support for the White House,<sup>11</sup> that set up its own secret police,<sup>12</sup> that used its clandestine police force to violate the rights of American citizens,<sup>13</sup> that hired a private eye to spy on its enemies, including their personal lives, domestic problems, drinking habits, social activities and sexual habits.<sup>14</sup>

That circulated an enemies list,<sup>15</sup> that developed plans to "use the available Federal machinery to screw our political enemies,"<sup>16</sup> that knew of an illegal break-in connected with the Ellsberg case and concealed that fact rather than report it to appropriate authorities,<sup>17</sup> that used a Presidential increase in milk support prices to get \$5,000 from the milk producers to pay for the Ellsberg break-in,<sup>18</sup> that recruited persons for that break-in on the false pretense of national security,<sup>19</sup> that offered the presiding judge in the Ellsberg trial the FBI Directorship at a clandestine meeting in the midst of the trial,<sup>20</sup> that ordered a warrantless wiretap on a news columnist's telephone,<sup>21</sup> that wiretapped 17 newsmen and government officials in an operation that was outside proper investigative channels.<sup>22</sup>

That suggested firebombing the Brookings Institute,<sup>23</sup> that set up an Intelligence Evaluation Committee outside the legitimate intelligence community to disseminate information that should have been restricted to individual agencies,<sup>24</sup> that used the Secret Service to wiretap the President's brother,<sup>25</sup> that kept \$350,000 in left-over 1968 campaign funds in a safe in the Chief of Staff's office,<sup>26</sup> that used most of those funds as hush money for the Watergate burglars,<sup>27</sup> that approved a large contribution from the milk producers association after being told it was meant to gain access to and favors from the White House.<sup>28</sup>

<sup>11</sup> Operation Sandwedge, drawn up by John Caulfield in late 1971, to infiltrate campaign organizations, with a "black bag" capability, "surveillance of Democratic primaries," and "derogatory information investigative capability, worldwide." See exhibit 7, p. 240, Campaign Practices, *supra*.

<sup>12</sup> See "The Intelligence Community," *infra* (discussion of the establishment and functions of the secret so-called Plumbers unit in the White House).

<sup>13</sup> On June 21, 1974, Mr. Charles Colson was sentenced to 1 to 3 years in jail for, among other things, activities of the Plumbers "to influence, obstruct, and impede the conduct and outcome of the criminal prosecution of Daniel Ellsberg."

<sup>14</sup> See the list of investigations by Anthony Ulasevich, "The Intelligence Community," *infra*; see also Ulasevich testimony, 6 *Hearings* 2219-2277.

<sup>15</sup> See exhibits 44, 48-65, 4 *Hearings* 1682, 1689-1734.

<sup>16</sup> See exhibit 48, 4 *Hearings* 1689.

<sup>17</sup> When the prosecutors finally learned of the break-in 18 months after it occurred, they were told by the President, "you stay out of that," even though it was a crime for which at least one defendant has been convicted, 9 *Hearings* 3631.

<sup>18</sup> Ellsberg Break-in Grand Jury Proceedings, 652-656.

<sup>19</sup> Testimony of Bernard Barker, 1 *Hearings* 358.

<sup>20</sup> Testimony of John Ehrlichman, 6 *Hearings* 2617-19.

<sup>21</sup> At Ehrlichman's instructions, Caulfield had John Regan tap columnist Joseph Kraft's home telephone. John Caulfield executive session, Mar. 16, 1974.

<sup>22</sup> See testimony of Robert Mardian, 6 *Hearings* 2392-93; John Ehrlichman, 6 *Hearings* 2529; and John Dean, 3 *Hearings* 920.

<sup>23</sup> John Caulfield executive session, Mar. 23, 1974; testimony of John Dean, 3 *Hearings* 920.

<sup>24</sup> Notwithstanding the fact that the statutes prohibit the CIA from participating in any domestic intelligence function, they were called upon to evaluate domestic intelligence-gathering by other agencies, when the Intelligence Evaluation Committee was set up. Testimony of John Dean, 4 *Hearings* 1457.

<sup>25</sup> In a press conference on Nov. 17, 1973, the President stated: "The Secret Service did maintain a surveillance. They did so for security reasons, and I will not go beyond that. They were very good reasons, and my brother was aware of it."

<sup>26</sup> Testimony of H. R. Haldeman, 7 *Hearings* 2879; Gordon Strachan, 6 *Hearings* 2442, 2461.

<sup>27</sup> Testimony of Fred LaRue, 6 *Hearings* 2343.

<sup>28</sup> Mr. Kalmbach testified that he reported the original milk producers' contribution, and their request in return for 90 percent parity, a Presidential address at their Convention, and a Presidential audience, to Messrs. Ehrlichman, Flanagan, Gleason, and Dent. Herbert Kalmbach, executive session.

That received and passed on information about an IRS audit of one of the President's friends,<sup>29</sup> that arranged for a tax attorney for the friend,<sup>30</sup> that contacted the IRS as well as the Justice Department in a number of other tax cases involving friends of the President,<sup>31</sup> that planned and possibly carried out a break-in at the office of a Las Vegas publisher,<sup>32</sup> that suggested a break-in at the apartment of the man who attempted to assassinate Governor Wallace,<sup>33</sup> that contemplated a break-in at the Potomac Associates offices,<sup>34</sup> that tried to rewrite history by making up bogus State Department cables to falsely connect the Kennedy administration with the assassination of President Diem,<sup>35</sup> that attempted to get reporter William Lambert to use the phony cables in a story,<sup>36</sup> that tried to plant false stories connecting the President's opponent with communist money and the crimes alleged in the Ellsberg case.<sup>37</sup>

That installed an elaborate system of taping conversations between the President and his staff or visitors,<sup>38</sup> that told Federal investigators to stay out of the Ellsberg matter,<sup>39</sup> that undertook a clandestine operation to hide a key witness in the ITT case in a Denver hospital where she was interrogated by Howard Hunt in disguise,<sup>40</sup> that authorized and funded from within the White House a dirty tricks operation including scurrilous literature, late night telephone campaigns and advertising designed to offend local interests, seemingly sponsored by Democratic candidates, and physical disruptions directed against Presidential opponents,<sup>41</sup> that planted spies, hecklers, and pickets in the Muskie and Humphrey campaigns,<sup>42</sup> that participated in discussions of a campaign against Democrats to include prostitutes, mugging, kidnapping, bugging, and burglary.<sup>43</sup>

That pressed for adoption of Liddy's Watergate plan,<sup>44</sup> that was told of the authorization and budget for Liddy's plan,<sup>45</sup> that believed it had received transcripts of illegal wiretaps and never reported that

<sup>29</sup> Gen. Alexander Haig, White House Chief of Staff, was called by William Simon of the Treasury Department and told that Mr. Rebozo was to be audited. General Haig met with White House attorneys on the matter, resulting in a decision to tell the President and volunteer to use the White House attorneys to find a tax lawyer for Mr. Rebozo. Gen. Alexander Haig, executive session.

<sup>30</sup> *Id.*

<sup>31</sup> This help was extended to Dr. Kenneth Riland, testimony of John Dean, 4 *Hearings* 1530, 1559. It also went to the Rev. Billy Graham and actor John Wayne. *Id.*, at 1529-1530.

<sup>32</sup> Testimony of Howard Hunt, 9 *Hearings* 3687. See also, transcripts of Presidential conversations.

<sup>33</sup> Testimony of Howard Hunt, executive session, July 25, 1973, pp. 129-33.

<sup>34</sup> A White House memo, dated July 6, 1971, from John Caulfield to John Dean, stated: "Building appears to have good security with guard present in lobby during day and evening hours. However, a penetration is deemed possible if required."

<sup>35</sup> Testimony of Howard Hunt, 9 *Hearings* 3732.

<sup>36</sup> *Id.*, at 3672.

<sup>37</sup> Exhibit 194, 10 *Hearings* 4259 (a memo from Pat Buchanan recommending, "the Ellsberg connection, tying McGovern to him and his crime—as soon as the indictment comes down.") A Dean to Haldeman memo stated, "We need to get our people to put out the story on the foreign or Communist money that was used in support of demonstrations against the President in 1972. We should tie all 1972 demonstrations to McGovern. . . ." See 8 *Hearings* 3171.

<sup>38</sup> Testimony of Alexander Butterfield, 5 *Hearings* 2074.

<sup>39</sup> Testimony of Henry Petersen, 9 *Hearings* 3631.

<sup>40</sup> Testimony of Robert Mardian, 6 *Hearings* 2359; testimony of Howard Hunt, 9 *Hearings* 3752-53.

<sup>41</sup> See the Electoral Process, *infra* (description of the Segretti operation).

<sup>42</sup> See executive session, Herbert Porter, Apr. 2, 1973 (the activities of Sedan Chair I and Sedan Chair II).

<sup>43</sup> Testimony of John Mitchell, 5 *Hearings* 1610.

<sup>44</sup> Testimony of Jeb Magruder, 2 *Hearings* 835. (Phone call by Mr. Colson to Mr. Magruder, to "get on the stick and get the Liddy project approved so we can get the information from O'Brien.")

<sup>45</sup> For example, on Mar. 30, 1972, a few days after the Liddy plan was allegedly approved, a memo from Strachan to Haldeman reported, "Magruder reports that 1701 (CRP) now has a sophisticated political intelligence gathering system with a budget of 300." Testimony of Gordon Strachan, 6 *Hearings* 2441. An Apr. 4, 1972, talking paper for a meeting between Mitchell and Haldeman included the intelligence plan and its \$300,000 budget. *Id.*, at 2454.

crime,<sup>46</sup> that was warned of the planned break-in at the Watergate and did nothing to stop it,<sup>47</sup> that knew the full scope of Liddy's activities shortly after the Watergate arrests and kept those facts from proper authorities,<sup>48</sup> that shredded Watergate evidence in the Chief of Staff's files,<sup>49</sup> that tried to use one of its executive branch agencies as a "cover" for the Watergate operation.<sup>50</sup>

That was the scene of meetings at which high officials plotted to use the power and influence of the Presidency to cover up crimes and obstruct justice,<sup>51</sup> that saw advisers invoke the power of the Presidency to use an FBI Director in ways that would eventually cause him to resign,<sup>52</sup> that used the President's fundraising powers to collect illegal corporate contributions,<sup>53</sup> to raise funds to finance a crime,<sup>54</sup> and to collect bribes for a criminal case.<sup>55</sup>

That discussed using the President's clemency prerogatives as early as July 1972, to keep the lid on Watergate and other crimes, while misleading the American people by calling Watergate a third-rate burglary,<sup>56</sup> that made offers of clemency for improper purposes,<sup>57</sup> that announced, in a Presidential statement, a Dean investigation clearing the White House, when there had in fact been a coverup not an investigation and the President had never, ever talked to Dean about Watergate,<sup>58</sup> that discussed, in the oval office, unethical out-of-court contacts with the presiding judge in one of the Watergate civil suits,<sup>59</sup> that purposely lied to the FBI and a Federal grand jury,<sup>60</sup> that encouraged

<sup>46</sup> Mr. Strachan testified, "I did not tell Mr. Dean that I had, in fact, destroyed wiretap logs, because I was not then sure what they were, I only had suspicions." Testimony of Gordon Strachan, 6 *Hearings* 2442. Mr. Strachan also had access to all the Watergate wiretap transcripts. Testimony of Jeb Magruder, 2 *Hearings* 827.

<sup>47</sup> Mr. Strachan, according to Mr. Magruder, was as well briefed, on the evening of June 16, 1972, on the intelligence operation (including the plan for a second break-in on June 17) as anybody at the Committee To Re-Elect. Testimony of Jeb Magruder, 2 *Hearings* 827.

<sup>48</sup> The White House counsel, among others, was fully briefed by Liddy himself 3 days after the break-in, and given the full story of Liddy's Plumbers' activities as well. Testimony of John Dean, 3 *Hearings* 933.

<sup>49</sup> Testimony of Gordon Strachan, 6 *Hearings* 2458.

<sup>50</sup> Both Mr. Helms and General Walters of the CIA testified that at a meeting on June 23, 1972, with Mr. Haldeman and Mr. Ehrlichman, they were instructed to use the CIA to interfere with the FBI investigation of Watergate. Testimony of Richard Helms, 8 *Hearings* 3238; testimony of General Vernon Walters, 9 *Hearings* 3405.

<sup>51</sup> As soon as Mr. Dean returned to Washington after the break-in, he began meeting with White House officials, such as his meetings on June 19, 1972, with Messrs. Ehrlichman, Colson, and others to discuss how to handle Liddy and the contents of Hunt's safe. Testimony of John Dean, 3 *Hearings* 934.

<sup>52</sup> Patrick Gray testified that he took the Hunt files and destroyed them because the order came from "the counsel to the President of the United States issued in the presence of one of the two top assistants to the President of the United States." Testimony of Patrick Gray, 9 *Hearings* 3467.

<sup>53</sup> See testimony of eight corporate executives convicted of illegal corporate contributions, Nov. 13-15, 1973, 13 *Hearings*.

<sup>54</sup> Not only was the Ellsberg break-in financed by milk producers' money (see note 18, *supra*), but the Watergate break-in was financed by money from the Committee To Re-Elect. Testimony of Hugh Sloan, 2 *Hearings* 539; testimony of Maurice Stans, 2 *Hearings* 795.

<sup>55</sup> Mr. Kalmbach was asked to raise funds for the Watergate burglars. Testimony of John Dean, 3 *Hearings* 950; confirmed by Transcripts of Presidential Conversations, Apr. 14, 1973, p. 494.

<sup>56</sup> Presidential statement of Aug. 15, 1973, p. 3; testimony of John Ehrlichman, 7 *Hearings* 2848-49.

<sup>57</sup> On at least three occasions Watergate defendant James McCord received offers of executive clemency if he would remain silent and plead guilty. Testimony of James McCord, 1 *Hearings* 131, 132, 135, 139-141.

<sup>58</sup> Testimony of John Dean, 3 *Hearings* 955.

<sup>59</sup> Testimony of John Dean, 3 *Hearings* 958. "He (Judge Ritchie) has made several entrees off the bench—one to Kleindienst and one to Roemer McPhee to keep Roemer abreast of what his thinking is. He told Roemer that he thought Maury (Maurice Stans) ought to file a libel action." Transcripts of Presidential Conversations, Sept. 15, 1972, p. 60.

<sup>60</sup> Herbert L. Porter pleaded guilty, on Jan. 28, 1974, to one count of making false statements to FBI agents. Gordon Strachan testified that he was expressly asked to do something he knew was improper related to his grand jury testimony of Apr. 1973. Testimony of Gordon Strachan, 6 *Hearings* 2443. See also testimony of Jeb Stuart Magruder, 2 *Hearings* 801, 802, 804, 831-832.

campaign officials to commit perjury and plead the fifth amendment to obstruct justice.<sup>61</sup>

That used the President's personal attorney and White House staff to pay criminal hush money,<sup>62</sup> and to pay for a private eye operating out of the White House,<sup>63</sup> that used its influence to get raw FBI files for improper purposes,<sup>64</sup> that prevailed upon the FBI not to interview certain witnesses,<sup>65</sup> that used patriotic concern for the Presidency to pressure defendants to plead guilty in a criminal case.<sup>66</sup>

That used its influence to get special treatment for high officials before a Federal grand jury,<sup>67</sup> that plotted to cover up the Segretti story and denounced in the harshest terms those who uncovered the story,<sup>68</sup> that noted "it would assuredly be psychologically satisfying to cut the innards from Ellsberg and his clique,"<sup>69</sup> that obstructed congressional investigations of Watergate and related matters,<sup>70</sup> that filed Watergate countersuits for the distorted purposes of using subpoena powers to delve into the financial and sexual activities of political opponents,<sup>71</sup> that made numerous misleading or false statements about Watergate to the American people.<sup>72</sup>

That failed to promptly inform proper authorities about knowledge of crimes involving White House officials,<sup>73</sup> that forced the resignation of a Special Prosecutor, Attorney General, and Deputy Attorney General when their Watergate prosecution took an independent position,<sup>74</sup> that suggested using the Attorney General's powers to keep a Republican opponent off the primary ballot in

<sup>61</sup> Dean attempted to get Sloan's lawyers to have Sloan take the fifth amendment. Testimony of Hugh Sloan, 2 *Hearings* 585, 586. Herbert Porter testified that he was asked to perjure himself by Magruder concerning the amount given Liddy—asked to say he gave \$100,000 to pay surrogates. Porter, subsequently, perjured himself to the grand jury and in the trial. Testimony of Herbert L. Porter, 2 *Hearings* 635–637.

<sup>62</sup> Testimony of John Dean, 3 *Hearings* 950. Kalmbach recollected that Dean stressed secrecy with respect to raising funds for the defendants, that he made a very strong point that there was absolute secrecy required, confidentiality, indicating that if this became known, it might jeopardize the campaign and cause misinterpretation. Testimony of Herbert Kalmbach, 5 *Hearings* 2098.

<sup>63</sup> Mr. Caulfield worked on his intelligence project with Mr. Ehrlichman and Mr. Kalmbach. He hired Mr. Ulasewicz on July 9, 1969, who was paid on a monthly basis through the Kalmbach law firm. Testimony of John Caulfield, 1 *Hearings* 251.

<sup>64</sup> Testimony of John Dean, 3 *Hearings* 944–945. Testimony of L. Patrick Gray, 9 *Hearings* 3479.

<sup>65</sup> At the request of Mr. Dean, Mr. Gray held up FBI interviews with such valuable witnesses as Mr. Dahlber, Mr. Ogarrro, and Kathleen Chenow. On June 28, Dean requested Gray to hold up an interview with Kathleen Chenow on grounds of national security. Testimony of L. Patrick Gray, 9 *Hearings* 3455.

<sup>66</sup> Testimony of Bernard L. Barker, 1 *Hearings* 358.

<sup>67</sup> Petersen testified that he received a telephone call from Ehrlichman asking that Mr. Stans be excused from going to the grand jury and telling Petersen to stop harassing Stans. Testimony of Henry Petersen, 9 *Hearings* 3618.

<sup>68</sup> Testimony of Clark MacGregor, 12 *Hearings* 5019.

<sup>69</sup> Memorandum of July 8, 1971, from Patrick L. Buchanan to John Ehrlichman.

<sup>70</sup> Mr. Mitchell testified that there were many discussions of preventing the House Banking and Currency Committee hearings from getting off the ground, including possible use of assistance from the Justice Department. Testimony of John Mitchell, 5 *Hearings* 1897. The Lacosta meetings, which discussed the use of executive privilege to prevent testimony of people from the White House, could well be concluded to evidence an intention to prevent the facts from becoming known, according to Mr. Dean. Testimony of John Dean, 4 *Hearings* 1460.

<sup>71</sup> Testimony of John Dean, 3 *Hearings* 957.

<sup>72</sup> For example, a meeting on Oct. 15, 1972, at the White House, with Ehrlichman, Ziegler, Buchanan, Moore, Chapin, and Dean was held to prepare a press response to Segretti stories. It was decided to attack and deny the stories, even though an intense investigation within the White House had already established the basic truth of the stories. The same denial was issued again in succeeding months. Testimony of John Dean, 3 *Hearings* 1202, 1206, and 1209; notes of the meetings, 3 *Hearings* 1200.

<sup>73</sup> Aside from the coverup in general, the President claims to have learned of crimes on Mar. 21, 1973, but did not tell the prosecutors about this evidence until they came to him on Apr. 15, 1973. Testimony of Richard Kleindienst, 9 *Hearings* 3579–80; testimony of Henry Petersen, 9 *Hearings* 3628.

<sup>74</sup> On Oct. 20, 1973, Attorney General Richardson and Assistant Attorney General Ruckelshaus resigned in response to the President's demand that they fire Special Prosecutor Cox, who wanted to appeal a court decision involving Watergate evidence to the Supreme Court. See also executive session of Gen. Alexander Haig.

Florida,<sup>75</sup> that used the Executive's authority over the media's regulatory agencies to intimidate the media,<sup>76</sup> that ordered a personal tax audit, surveillance by an FBI agent and Secret Service agents, and an antitrust action, all in response to a newspaper article about one of the President's friends.<sup>77</sup>

That tried to punish foundations with views different than White House policy by pressuring the IRS to review their tax-exempt status,<sup>78</sup> that set up a program to insure that Government contracts, grants, and loans would, as a matter of Government policy, be political rewards,<sup>79</sup> that treated the Presidential pardon as a political tool,<sup>80</sup> that used its power over the tax-collection agency to gather intelligence on and harass political opponents,<sup>81</sup> that issued instructions to hire a shaggy person with a McGovern button, to sit in front of the White House, and counter demonstrators at the funeral of J. Edgar Hoover,<sup>82</sup> that infiltrated a Quaker vigil in front of the White House,<sup>83</sup> that used the agency that is supposed to guard the President to spy on the President's political opponent,<sup>84</sup> that ordered 24-hour surveillance of a political opponent,<sup>85</sup> that used the departments to dredge up potentially embarrassing information on Presidential contenders, and then leaked it to the press,<sup>86</sup> that used White House influence to obtain CIA equipment for the Ellsberg break-in,<sup>87</sup> that used its entrustment with our national security to convince four Cubans to burglarize a political party.<sup>88</sup>

That ordered an FBI investigation of an unfriendly newsman to harass him,<sup>89</sup> that proposed leaking confidential FBI files to embarrass the producer of a satirical movie,<sup>90</sup> that used its control of important

<sup>75</sup> Memo to the Attorney General from Mr. Magruder, Aug. 11, 1971: "Pat Buchanan suggested that maybe we could have the Florida State chairman do whatever he can under this law to keep McCloskey (Representative McCloskey, Republican-California) off the ballot." Exhibit 177, 10 *Hearings* 4194.

<sup>76</sup> Memo from Charles Colson to H. R. Haldeman, Sept. 25, 1970, recommending that he "pursue with Dean Burch the possibility of an interpretive ruling by the FCC . . . this point could be very favorably clarified and it would, of course, have an inhibiting impact on the networks. . . ."

<sup>77</sup> When the newspaper *Newsday* decided to run an in-depth article on Mr. Rebozo, the reporter writing the story was audited at White House request, an FBI agent investigated the newspaper's offices, an antitrust suit was recommended, and the Secret Service investigated the reporters' activities while they were writing the story. Testimony of Senator Lowell P. Weicker, hearings on "Warrantless Wiretapping and Electronic Surveillance," Apr. 8, 1974 (exhibit 7).

<sup>78</sup> Memo to the President from Patrick Buchanan, Mar. 3, 1970. 10 *Hearings* 4114.

<sup>79</sup> Memo from Fred Malek to H. R. Haldeman, Mar. 17, 1972, entitled "Increasing the Responsiveness of the Executive Branch."

<sup>80</sup> For example, a request that a prominent Jewish figure in Florida be pardoned for political benefit. In a memo to John Dean, Charles Colson recommends, "If there is anything we can do properly, we should . . . this has to be handled with extreme care." Testimony of Senator Lowell P. Weicker, hearings on "Warrantless Wiretapping and Electronic Surveillance," Apr. 8, 1974. The pardon was granted and a \$30,000 contribution followed. Interview with Calvin Kovens, Oct. 25, 1973.

<sup>81</sup> See exhibit 44, 4 *Hearings* 1682, 1694, 1695.

<sup>82</sup> Testimony of Robert Reisner, 2 *Hearings* 500, 512.

<sup>83</sup> Interview with Jeb Magruder, Aug. 8, 1973.

<sup>84</sup> White House memo from Steve Karalekas to Charles Colson, Aug. 16, 1972, referring to the activities of agent Bolton. See also testimony of John Dean, 3 *Hearings* 923, 1071.

<sup>85</sup> "It was my understanding based on my discussion with John Dean, that there was to be a 24-hour tail on Senator Kennedy." Testimony of Gordon Strachan, 6 *Hearings* 2492.

<sup>86</sup> See memo from Fred Malek to H. R. Haldeman, entitled "Increasing the Responsiveness of the Executive Branch," dated Mar. 17, 1972.

<sup>87</sup> On July 7, 1971, John Ehrlichman called General Cushman, Deputy Director of the CIA, to arrange CIA assistance to Howard Hunt for disguise purposes. Hunt told Cushman that he (Hunt) had been charged with a "sensitive mission" by the White House to "interview a person whose ideology he was not certain of." Testimony off Gen. Robert Cushman, Jr., 8 *Hearings* 3290-92.

<sup>88</sup> Testimony of Bernard Barker, 1 *Hearings* 358.

<sup>89</sup> H. Haldeman ordered an investigation of newsman Daniel Schorr, 4 *Hearings* 1490.

<sup>90</sup> Memo from John Caulfield to John Dean, dated June 25, 1971, subject: Emile de Antonio, producer of "Millhouse"; New Yorker Films, Inc.; and Daniel Talbot, film distributor. "I recommend that it is time to move on the above firm and individuals, as follows: (A) Release of de Antonio's FBI derogatory background to friendly media and (B) discreet IRS audits of New Yorker Films, Inc., de Antonio and Talbot."



Watergate evidence and the privilege known as executive privilege to aid those supporting the President and to deprive or delay those in opposition,<sup>91</sup> that made plans to eliminate professionals in government service who placed their professional responsibilities above questionable White House political demands,<sup>92</sup> that participated actively and formally in a campaign organization while drawing White House staff salaries,<sup>93</sup> that ran secret letter-writing campaigns against Republican Senators, and that generally emasculated the Republican Party.<sup>94</sup>

That . . . all of that . . . violated the concept of executive power in article II of the Constitution. Extensive as the record is, it represents only selected examples.

The important point is that it is certainly not what our Founding Fathers had in mind when they envisioned the Presidency.

## 2. ENUMERATED POWERS AND DUTIES

The enumerated powers and duties of the President's office are set forth beginning with section 2 of article II. That section grants the President direct power over Cabinet officers.<sup>95</sup> Much testimony before this committee demonstrated how those officers were used on behalf of the President's office.

For example, an Attorney General, for a significant period of time, ran the President's reelection campaign while still in office at the Justice Department.<sup>96</sup> His reason for this role was that, "it is very, very difficult to turn down a request by the President of the United States,"<sup>97</sup> even though the Attorney General himself later testified that he felt such a role in politics while still in office was wrong.<sup>98</sup> As an illustration of the extent of that role, memos from CRP, such as one entitled "Grantsmanship," suggesting an effective method of "insuring that political considerations" be used in Federal programs,<sup>99</sup> were sent to the Attorney General from May 1, 1971, onward.<sup>99a</sup> At one point, it was even suggested that the Attorney General wield the power of his office to keep a Republican contender off the primary ballot in Florida.<sup>1</sup> That campaign role also included an extraordinary meeting in the Attorney General's very office, to review plans for bugging, mugging, burglary, prostitution, and kidnaping.<sup>2</sup>

Another Attorney General was placed in the awkward position of being asked immediately after the Watergate break-in to help get Mr. McCord out of jail before he was identified. He was soon thereafter warned of White House concern with a too aggressive FBI investigation.<sup>3</sup> He was then asked to provide raw FBI Watergate files, im-

<sup>91</sup> Mr. Haldeman testified that he had access to various tapes of Presidential conversations. (See 8 *Hearings* 3050-51); compare with testimony of John Dean, 4 *Hearings* 1503.

<sup>92</sup> See exhibit 44, 4 *Hearings* 1682.

<sup>93</sup> Testimony of Robert Odle: "those people who were at the White House had influence over the (Committee for the Re-Election of the President), they gave it direction, they assisted it." See 1 *Hearings* 23.

<sup>94</sup> See the Party Process, *supra*.

<sup>95</sup> U.S. Constitution, art. II, sec. 2.

<sup>96</sup> Mr. Mitchell testified that he "had frequent meetings with individuals (from CRP) dealing with matters of policy," before he resigned as Attorney General. Testimony of John Mitchell, 5 *Hearings* 1653.

<sup>97</sup> Testimony of John Mitchell, 5 *Hearings* 1859.

<sup>98</sup> *Id.*

<sup>99</sup> Exhibit 1, 1 *Hearings* 449.

<sup>99a</sup> See testimony of Robert C. Odle, 1 *Hearings* 40-41.

<sup>1</sup> See note 75, p. 1183.

<sup>2</sup> Testimony of John Mitchell, 5 *Hearings* 1610.

<sup>3</sup> Testimony of John Dean, 3 *Hearings* 936.

properly, to the White House. That same Attorney General was later used as a secret contact with this committee's investigation of Watergate, and was then removed from office in an apparent connection with the Watergate affair.<sup>4</sup> He eventually became the first Attorney General in history convicted of a crime, for his testimony about Presidential interference in an antitrust case involving a major contributor.<sup>5</sup>

A third Attorney General was forced to resign his office when he backed the special prosecutor's procedure for obtaining Watergate evidence from the White House.<sup>6</sup>

An Assistant Attorney General was also asked to provide raw FBI Watergate files, again improperly, to the White House,<sup>7</sup> and was later told by the President not to investigate the Ellsberg break-in.<sup>8</sup> A Deputy Attorney General was forced to resign when he backed the special prosecutor's decisions in the Watergate case.<sup>9</sup> An Assistant Attorney General gave confidential Justice Department and FBI intelligence information to the President's reelection campaign, at the direction of the White House.<sup>10</sup>

Three Attorneys General, a Deputy Attorney General, and two Assistant Attorneys General. And all this was done on behalf of the Presidency, which has a constitutional responsibility to "take Care that the Laws be faithfully executed."<sup>11</sup>

With respect to other Cabinet officers, a Secretary of Commerce with all the authority as to corporate affairs that goes with that position, was placed in charge of raising funds for the President's reelection, including, as it turns out, a number of illegal corporate contributions.<sup>12</sup> A Secretary of Treasury met with a milk producers association and supported their request for higher price supports. After the President granted higher support prices, the milk producers arranged for him to be offered at least \$10,000 in cash for his personal use, a transaction for which he has been criminally indicted. He later aided them in tax and antitrust matters at a time when a large contribution to the President from the milk producers was being arranged.<sup>13</sup>

The Commissioner of the Internal Revenue Service was criticized because "practically every effort to proceed in sensitive areas is met with resistance, delay, and the threat of derogatory exposure."<sup>14</sup> The Director of the CIA, according to his own testimony and that of his assistant, was called to the White House and asked to use the CIA to cover up Watergate.<sup>15</sup> The Acting Director of the FBI was brought to the White House and given material from the safe of one of the Watergate burglars, to keep it hidden, an act which resulted in his

<sup>4</sup> See testimony of Richard G. Kleindienst, 9 *Hearings* 3597.

<sup>5</sup> Richard G. Kleindienst pleaded guilty, on May 16, 1974, to one count of refusing to testify about ITT: sentenced June 7, 1974 to 1 month unsupervised probation.

<sup>6</sup> On Oct. 20, 1973, Attorney General Richardson resigned in a dispute with the President over the firing of special prosecutor, Archibald Cox.

<sup>7</sup> Testimony of John Dean, 3 *Hearings* 944-45.

<sup>8</sup> Testimony of Henry Petersen, 9 *Hearings* 3631.

<sup>9</sup> On Oct. 20, 1973, Assistant Attorney General William Ruckelshaus resigned in response to the President's request to fire special prosecutor Archibald Cox.

<sup>10</sup> With the approval of the Attorney General John Mitchell, Mr. McCord testified that he received information, on a daily basis, from the Internal Security Division of the Justice Department, which information included FBI data and data on individuals of both a political and nonpolitical nature. Testimony of James McCord, 1 *Hearings* 178-83.

<sup>11</sup> U.S. Constitution, art. II, sec. 3.

<sup>12</sup> Testimony of Maurice H. Stans, 2 *Hearings* 734.

<sup>13</sup> See Milk Fund Investigation, *supra*.

<sup>14</sup> Transcripts of Presidential Conversations, Sept. 15, 1972.

<sup>15</sup> Testimony of Richard Helms, 8 *Hearings* 3238. Testimony of Lt. Gen. Vernon Walters, 9 *Hearings* 3405.

eventual resignation.<sup>16</sup> That same Acting Director turned over raw FBI files on Watergate to the White House,<sup>17</sup> perhaps illegally,<sup>18</sup> when assured it was at the President's request,<sup>19</sup> which request the President has confirmed in public statements.<sup>20</sup> He was rewarded by being left to "twist slowly, slowly in the wind"<sup>21</sup> while his nomination to permanent Director was pending before the Senate, even though the President had reportedly already abandoned him.<sup>22</sup>

This is how the officers in the departments and agencies were used by the White House, and it is clear that those activities did not pertain to "any subject relating to the Duties of their respective offices,"<sup>23</sup> as the Constitution requires in its grant of Presidential authority in this area.

Immediately following the section in article II granting authority over departments and agencies, is a section giving the President the "power to grant Reprieves and Pardons for Offenses against the United States."<sup>24</sup>

There is undisputed testimony that defendants in the Watergate criminal case were offered clemency in exchange for their silence.<sup>25</sup> Aside from the issue as to who authorized the officers, they were particularly firm in the case of one defendant who was apparently ignoring the game plan.<sup>26</sup> It must be recalled that only the President can grant clemency, and that by his own admission he discussed clemency as early as July 1972, when Watergate was being described as only a "third-rate burglary."

There is the well-documented case of a request from a former Senator, and close friend of the President, for a pardon on behalf of a prominent Jewish figure in Florida, because of the political advantage that would follow.<sup>27</sup> That pardon was granted. The beneficiary then gave the President's campaign \$30,000.<sup>28</sup>

Article II also gives the Executive the power to appoint ambassadors. Whereas this has often been a source of political reward, there is substantial evidence of an unusually well-organized and enforced program of ambassadorships for sale, in return for specific support in the 1972 Presidential campaign.<sup>29</sup>

Along with appointive power for ambassadors, the Executive has appointive power over lesser "Officers of the United States."<sup>30</sup> This power was used, for example, as a reward for at least one participant in Watergate, who received a prominent position in the Department of

<sup>16</sup> Testimony of L. Patrick Gray, 9 *Hearings* 3467. Testimony of John Ehrlichman, 7 *Hearings* 2674.

<sup>17</sup> Testimony of John Dean, 3 *Hearings* 945.

<sup>18</sup> John Dean pleaded guilty to an "information" charge that included a conspiracy to obtain FBI Watergate files. (*United States v. Dean, D.D.C., No. 886-73*).

<sup>19</sup> See testimony of L. Patrick Gray, 9 *Hearings* 3479-81.

<sup>20</sup> Presidential statements of Mar. 2, 1973, Apr. 5, 1973, and Oct. 19, 1973.

<sup>21</sup> Testimony of John Ehrlichman, 7 *Hearings* 2679.

<sup>22</sup> See Exhibit 102, 7 *Hearings* 2950.

<sup>23</sup> U.S. Constitution, art. II, sec. 2.

<sup>24</sup> *Ibid.*

<sup>25</sup> McCord testified that Mr. Caulfield assured him of executive clemency, support for the family and rehabilitation after prison on numerous occasions. Testimony of James McCord, 1 *Hearings* 131.

<sup>26</sup> On Jan. 13, 1973, Mr. McCord met Mr. Caulfield and another message was conveyed as to clemency, along with statements that the President's ability to govern was at stake, another Teapot Dome scandal was possible, the government may fall, and everybody else was on the track but McCord, who was following the game plan, and who should get "closer to your attorney" and keep silent. Testimony of James McCord, 1 *Hearings* 139-40.

<sup>27</sup> See testimony of Senator Lowell P. Weicker, Jr. *Hearings on Warrantless Wiretapping and Electronic Surveillance*, pp. 151-55.

<sup>28</sup> Interview with Calvin Kovens, Oct. 25, 1973.

<sup>29</sup> See, use of the incumbency—Responsiveness Program, *supra*.

<sup>30</sup> U.S. Constitution, art. II, sec. 2.

Commerce.<sup>31</sup> Another CRP official in charge of certain spy activities pointedly reminded the White House of the work he had done when he applied for employment after the election.<sup>32</sup> Plans were also drawn up to use this appointive power in the President's second term to get rid of officials, across the board, who rightfully placed their professional responsibilities in the way of White House political demands.<sup>33</sup>

These enumerated powers and duties of the executive are followed with the duty to "take Care that the Laws be faithfully executed."<sup>34</sup> Evidence was presented to this committee of a break-in by a White House unit, which break-in contributed to a mistrial in a major national security case, the Ellsberg case. Illegal use of wiretaps and agent provocateurs by the administration was the direct cause of mistrials or dismissals in most major conspiracy cases brought by the Federal Government during this same period.<sup>35</sup>

This was an executive branch that conspired to present perjury, lie to the FBI, and pay for the silence of key witnesses in the Watergate case. This was the Executive that knew of a break-in related to the Ellsberg case and failed to take any action or report that fact.<sup>36</sup> This was the Executive that told an Assistant Attorney General not to investigate the Ellsberg matter.<sup>37</sup> This was the administration that learned of the Watergate planning sessions, budget approval, that received illegal wiretap transcripts, and covered up or failed to promptly report White House involvement in Watergate as those facts became known.

This is the White House that pressured the IRS, the Antitrust Division of Justice, the CIA, the FBI, the Secret Service, and the FCC to enforce laws not "faithfully," but "selectively."<sup>38</sup>

This is the same White House in which the President said in a conversation with John Dean on September 15, 1972, "We have not used the power in this first 4 years as you know. We have never used it. We have not used the Bureau (FBI) and we have not used the Justice Department but things are going to change now." The following months may or may not have been a change from what had been going on in 1970, 1971, and 1972, but they certainly were a sad chapter for our system of laws.

## B. SEPARATION OF POWERS

The separation of powers between three constitutionally equal and mutually independent branches of government is a fundamental constitutional doctrine.<sup>39</sup> It is often referred to as the concept of "checks and balances." Its success depends on self-adherence and restraint by those in a position to upset the balance.

<sup>31</sup> Jeb S. Magruder was appointed to the office of Deputy Director of Communications in the Department of Commerce after numerous discussions with H. R. Haldeman and John Mitchell among others, as to the sensitivity of the administration and its need to take care of Magruder. Testimony of Jeb Magruder, 2 *Hearings* 806.

<sup>32</sup> Testimony of Herbert Porter, 2 *Hearings* 653; see also testimony of Jeb Magruder, 2 *Hearings* 806.

<sup>33</sup> Exhibit 44, 4 *Hearings* 1682.

<sup>34</sup> U.S. Constitution, art. II, sec. 3.

<sup>35</sup> On May 13, 1974, in a unanimous ruling, the Supreme Court affirmed a decision prohibiting the use, against more than 600 defendants in Federal criminal cases of evidence obtained under wiretapping applications that were improperly signed by executive assistant rather than the Attorney General. (No. 72-1057, *United States v. Giorando*).

<sup>36</sup> Testimony of Henry Petersen, 9 *Hearings* 3630-31; see also, testimony of Richard Kleindienst, p. 3574.

<sup>37</sup> Testimony of Henry Petersen, 9 *Hearings* 3631.

<sup>38</sup> See note 77, p. 1183; testimony of Howard Hunt, 9 *Hearings* 3752-53; testimony of Patrick Gray, *Id.* at 3467; and note 84 *supra*.

<sup>39</sup> It is an historic concept of government derived from Aristotle and Montesquieu, based on the contention that "men entrusted with power tend to abuse it." For a good discussion of this concept, see Locke, "The Second Treatise on Civil Government," sec. 141; Duff and Whiteside, 4 "Selected Essays on Constitutional Law," 291-316 (1938).

Tragically, the record of Watergate reflects a conscious attempt by the Executive to undermine the responsibilities of the other two branches, as set forth in article I, which established the legislature, and article III, which established the judiciary.

Activities with respect to the legislature began with the first congressional body to take an interest in the Watergate matter, the House Banking and Currency Committee. Every attempt was made to use Executive power and influence, not to legitimately respond to that committee's investigation, but rather to obstruct, block, and actively mislead it.<sup>40</sup> The executive branch had sole possession of critical evidence necessary to that investigation. Its overt attempts to undermine the committee's work were therefore significant.

A different type of obstacle to the exercise of congressional powers occurred when nominees for high executive branch positions were sent before Senate committees for confirmation. In a number of instances, those nominees consciously misled committee inquiries and prepared testimony in such a way that relevant facts would be concealed.<sup>41</sup> To the extent that the nomination process was subverted, those who participated or were responsible deprived the Congress of a fundamental constitutional duty, the duty to advise and consent.

Discussions by senior White House officials of what were termed Watergate tactics, and meetings at LaCosta, Calif., focused on ways of obstructing an investigation of Watergate by the Senate. This included tactics such as the use of Executive privilege to prevent the testimony of people from the White House, efforts to influence members of the Senate committee conducting the investigation, and the compiling of campaign financing data from those Members' past campaigns in an effort to embarrass them.<sup>42</sup> The "attack group," a media-oriented White House group, arranged to meet with people from North Carolina thought to have embarrassing information about the chairman of this committee.<sup>43</sup> Members of the administration were used as clandestine contacts with the Republicans on the committee to either give "guidance" or gather intelligence on what facts the committee possessed.<sup>44</sup> John Dean was suggested as a liaison with the committee after he had admitted wrongdoing in the coverup,<sup>45</sup> and efforts toward having a "White House" minority counsel were put forward.<sup>46</sup>

<sup>40</sup> Testimony of John Dean, 3 *Hearings* 961, 1575.

<sup>41</sup> Testimony of John Dean, 3 *Hearings* 1007-8.

<sup>42</sup> Testimony of John Dean, 3 *Hearings* 984. "The White House will take a public posture of full cooperation, but privately will attempt to restrain the investigation and make it as difficult as possible to get information and witnesses." *Id.*

<sup>43</sup> Dean testified that there was a discussion that one of the ways of pressuring the Ervin committee was to review contributions made by the White House to members of the committee in the 1970 election, and that with this in mind records of those contributions were placed by Mr. Colson in Mr. Dean's safe so they could be looked into. Testimony of John Dean, 4 *Hearings* 1501-02. Dean recalled a conversation with Mr. Baroody, of the attack group (media-oriented White House group), in which Baroody told Dean that either that night or the next night he was meeting with some people from North Carolina who thought they might have some interesting information on Senator Ervin. Testimony of John Dean, 4 *Hearings* 1534.

<sup>44</sup> Attorney General Kleindienst was directed to meet with Senator Baker and provide guidance. Transcripts of Presidential conversations, Mar. 22, 1973.

P. John, you would have no problems to talk with Pat Gray and ask him what the hell Weicker is up to. Do you mind?

E. Not at all.

Transcripts of Presidential conversations, Mar. 27, 1973 (discussion between the President and Mr. Ehrlichman).

<sup>45</sup> "MITCHELL. I think it would be appropriate for your counsel to be present.

"DEAN. That's right.

"PRESIDENT. Alright. Now that that is done let's get down to the questions——"

Transcript of Presidential conversations, Mar. 22, 1973.

<sup>46</sup> Testimony of John Dean, 3 *Hearings* 984.

Separation of powers also encompasses article III, the judiciary. Here again, the executive subverted the constitutional balance. As an example, on September 15, 1972, in a conversation in the Oval Office, the President was told by Mr. Dean that *ex parte* (out-of-court) contacts had been made with the judge in one of the Watergate-related civil suits.<sup>47</sup> These contacts were for the purpose of obtaining an advantage in the case by keeping apprised of inside information, and they could well be unethical.<sup>48</sup> There was no evidence that the White House took any steps to stop that activity.

Still another abuse of the separation between the executive and judicial branches, was a contact made with the presiding judge in the Ellsberg case. That judge was asked if he would be interested in becoming Director of the FBI. Significantly, the offer was made in rather clandestine circumstances, at the very time the Ellsberg case was being tried, and at a time when it was becoming ever more possible that the break-in at Ellsberg's psychiatrist might become known to the judge and jeopardize the case against Ellsberg.<sup>49</sup> A contact under such circumstances, by one of the top White House officials and briefly by the President himself,<sup>50</sup> once again threatened the concept of mutual independence intended by the separation of powers.

### C. THE BILL OF RIGHTS

Unlike other amendments to the Constitution, the Bill of Rights was drawn up as something of a cohesive declaration of rights. It comprises the first 10 amendments, and represents a guarantee of individual freedoms that are fundamental to democracy.

The first, fourth, fifth, and sixth amendments are the bulwark of the substantive guarantees in our Bill of Rights. They were, without exception, attacked and violated by Watergate and related events.

That attack focused on the first amendment, which by its very words, as well as the prominent role it has taken in our history, mark it as a profoundly important statement of individual rights. Specifically, it protects freedom of expression in four forms—freedom of speech, press, assembly, and petition.

Those who spoke out against the administration, whether it was the chairman of the Democratic Party or Senators expressing their opposition, whether it was a prominent or unknown citizen, or whether a member of the administration itself, often found themselves the target of official retaliation for having exercised their freedom of speech.

"People who were most vocal and could command some audience were considered enemies or opponents."<sup>51</sup>

One witness testified that the White House was continually seeking intelligence information about demonstration leaders and their supporters that would either discredit them personally or indicate that the demonstration was in fact sponsored by some foreign enemy. There were also White House requests for information regarding ties between major political figures (specifically Members of the U.S. Senate) who opposed the President's war policies and the demonstration leaders.<sup>52</sup>

<sup>47</sup> See note 59, p. 1181.

<sup>48</sup> Canon 7 of the Code of Professional Responsibility, Ethical Considerations, pp. 7-35.

<sup>49</sup> Testimony of John Ehrlichman, 6 *Hearings* 2617-19.

<sup>50</sup> *Ibid.*

<sup>51</sup> Testimony of John Dean, 4 *Hearings* 1459.

<sup>52</sup> Testimony of John Dean, 3 *Hearings* 915.

Interference with the freedom of speech of such opponents took a wide variety of forms. It included a program run by Donald Segretti, in which his operatives were asked to "obtain hecklers," to be used to disrupt the speeches of Democratic Presidential candidates.<sup>53</sup>

According to Mr. Haldeman, the "enemies list" was drawn up to deprive those "who were expressing vocal opposition" to the White House of any "platform for getting extraordinary publicity for their expression of opposition."<sup>54</sup> Thus, they were labeled as "enemies," their names circulated through the Government, and as a group, identified for semiofficial executive branch action.

Aside from the enemies or opposing candidates, selected individuals who expressed opposition were subjected to questionable tactics. As an example, Alfred Baldwin conducted surveillance of various outspoken Senators and Congressmen, including Representatives Abzug, Chisholm, Koch, and McCloskey, and Senators Javits, Kennedy, and Proxmire.<sup>55</sup>

Senator Kennedy was not only subjected to the Baldwin surveillance, he was also a target of Anthony Ulasewicz and John Caulfield, who investigated his political contributors, his accident at Chappaquiddick, and a trip to Hawaii on official business.<sup>56</sup> Howard Hunt was asked by Mr. Colson to get information from a Kennedy friend in Rhode Island, and was provided with a CIA disguise for the operation.<sup>57</sup> Mr. Haldeman, according to multiple testimony, asked that Senator Kennedy be subjected to 24-hour surveillance. Literally dozens of citizens who spoke out in opposition were targets of Ulasewicz investigations, which were paid for by the President's personal attorney, supervised by Mr. Ehrlichman, and conducted outside law enforcement channels, because legitimate law enforcement was not involved.

The Watergate break-in itself, according to Jeb Magruder, was an attempt to find embarrassing information about Lawrence O'Brien, because "Mr. O'Brien had been a very effective spokesman against our position on the ITT case."<sup>58</sup> Magruder testified that because of O'Brien's effectiveness in speaking out, "we had hope that information (from the illegal break-in and wiretap) might discredit him."<sup>59</sup> This is an interesting use of the power and influence of the Presidency, in light of the first amendment. It has what is often called, in Supreme Court, first amendment cases, "a chilling effect." To the extent Government actions intimidate free speech, they violate the Constitution.

Those who chose to exercise constitutionally recognized symbolic speech, such as displaying a placard, were likewise interfered with. There was testimony that "during the late winter of 1971, when the President happened to look out the windows of the residence of the White House and saw a lone man with a large 10-foot sign stretched out in front of Lafayette Park."<sup>60</sup> Mr. Higby told Mr. Dean of the President's displeasure with the sign. Mr. Haldeman said the sign had to come down, and when Dean came out of Higby's office he "ran

<sup>53</sup> Testimony of Robert M. Benz, 11 *Hearings* 4404.

<sup>54</sup> Testimony of H. R. Haldeman, 8 *Hearings* 3155.

<sup>55</sup> Testimony of Alfred Baldwin, 1 *Hearings* 396-97.

<sup>56</sup> Testimony of John Dean, 3 *Hearings* 922-23; see also testimony of Howard Hunt, 9 *Hearings* 377-378. This resulted in a written report by Caulfield of Senator Kennedy's trip to Honolulu in August 1971. See exhibit 34-4, 3 *Hearings* 1117.

<sup>57</sup> Executive session of John Caulfield, Mar. 16, 1974, p. 85.

<sup>58</sup> Testimony of Jeb Magruder, 2 *Hearings* 790.

<sup>59</sup> *Ibid.*

<sup>60</sup> Testimony of John Dean, 3 *Hearings* 917.

into Mr. Dwight Chapin who said that he was going to get some 'thugs' to remove that man from Lafayette Park. He said it would take him a few hours to get them, but they could do the job."<sup>61</sup>

This was the White House, and its apparent version of first amendment rights of free speech. It also is indicative of the White House attitude to the first amendment's "right of the people to peaceably assemble, and to petition the Government for a redress of grievances,"<sup>62</sup> an attitude that likewise runs through much of its attack on the press.

The press, however, came in for especially intensive intimidation. A memo from Mr. Magruder to Mr. Haldeman, entitled "The Shotgun versus the Rifle,"<sup>63</sup> set out a plan for influencing news coverage of the White House. It gives some idea of the executive branch concept of our free press.

Among its specific suggestions was a recommendation to "utilize the antitrust division (of the Justice Department) to investigate various media relating to antitrust violations. Even the possible threat of antitrust action I think would be effective in changing their views."<sup>64</sup> Such a recommendation is clearly wrong, an abuse of Government, and an abuse of the first amendment. In at least one case, involving an in-depth story on Charles G. Rebozo, an antitrust action was recommended against the Los Angeles Times, which owned the paper doing the story.<sup>65</sup>

Another recommendation in "The Shotgun versus the Rifle" was "utilizing the Internal Revenue Service as a method to look into the various organizations that we are most concerned about. Just the threat of an IRS investigation will probably turn their approach."<sup>66</sup> It would again be illegal. And again in the Rebozo story, the newsman in charge of the story was in fact audited, at the specific request of the White House.<sup>67</sup>

Newscaster Chet Huntley wrote a piece in Life magazine, containing what were considered unfavorable remarks. The suggestions for retaliation against Huntley, in a White House memo by Mr. Higby, contained a telling statement of broad philosophy: "What we are trying to do here is tear down the institution."<sup>68</sup>

The broader tactics used against the press included meetings between Mr. Charles Colson and media representatives.<sup>69</sup> In a summary of his meetings with the three networks chief executives, he observed that they were terribly nervous about the Federal Communications Commission. He stated that, "although they tried to disguise this, it was obvious. The harder I pressed them (CBS and NBC) the more accommodating, cordial, and almost apologetic they became." He concluded by observing that "I think we can dampen their ardor for putting on 'loyal opposition' type programs."<sup>70</sup> One of the basic guaran-

<sup>61</sup> *Ibid.*

<sup>62</sup> U.S. Constitution, Amend. I.

<sup>63</sup> Memo from Jeb Magruder to H. R. Haldeman, October 17, 1969.

<sup>64</sup> *Id.*, at 2.

<sup>65</sup> Memo from David Wilson to John Dean, Dec. 1, 1971.

<sup>66</sup> Memo from Jeb Magruder to H. R. Haldeman, Oct. 17, 1969.

<sup>67</sup> Testimony of Senator Lowell Weicker, hearings on Warrantless Wiretapping and Electronic Surveillance, Apr. 8, 1974, (Exhibit 7).

<sup>68</sup> "The point behind this whole thing is that we don't care about Huntley—he is going to leave anyway. What we are trying to do here is tear down the institution. Huntley will go out in a blaze of glory and we should attempt to pop his bubble." Memo from L. Higby to Jeb Magruder, July 16, 1970.

<sup>69</sup> Memo from Charles Colson to H. R. Haldeman, Sept. 25, 1970.

<sup>70</sup> *Ibid.*



tees of a free press is that Government power not be used as prior restraint on the content of news.

Individual newsmen that were apparently critical of the administration were likewise intimidated. One such newsman, Daniel Schorr of CBS, was investigated by the FBI. When the investigation became known, the false story that he was being considered for a high administration position was put out, and Mr. Malek took the blame for the investigation even though it had been ordered by Mr. Haldeman.<sup>71</sup>

Newspapers and reporters that uncovered the Watergate story were publicly attacked and ridiculed. In one case, 4 months after the break-in, the "official White House position" was that stories about Donald Segretti were "stories based on hearsay, character assassination, innuendo or guilt by association."<sup>72</sup> That statement was later called "inoperative," after the White House had been unable to cover up the truth in the story.

Newspapers were exploited, by using them to put out stories known to be misleading, improper, and in some cases totally false. For example, Mr. Hunt testified that he used confidential FBI files to prepare a derogatory article on Mr. Leonard Boudin, an attorney in the Ellsberg case, which information Mr. Colson passed on to the working press.<sup>73</sup>

A memo from Mr. Haldeman stated that "we need to get our people to put out the story on the foreign or Communist money that was used in support of demonstrations against the President in 1972. We should tie all 1972 demonstrations to McGovern and thus to the Democrats as part of the peace movement."<sup>74</sup> Even though there was no evidence to support such stories, the memo went on to recommend, "we could let (columnists) Evans and Novak put it out and then be asked about it to make the point that we knew and the President said it was not to be used under any circumstance."<sup>75</sup>

Falsely tying Senator McGovern to Communist money was not the only false connection that was suggested. Mr. Patrick Buchanan recommended a number of campaign news strategies including, "The Ellsberg connection, tying McGovern to him, Ellsberg, and his crime," because "if the country goes to the polls in November scared to death of McGovern, thinking him vaguely anti-America and radical and pro the leftwingers and militants then they will vote against him—which means for us."<sup>76</sup> This is a clear abuse of executive power as to the press.

One of the most cold-blooded memos to come out of the White House during this period was written by Patrick J. Buchanan. It analyzed the pros and cons of a press attack on Dr. Ellsberg.

The memo begins, "having considered the matter until the early hours, my view is that there are some dividends to be derived from 'Project Ellsberg.'" Giving his personal view, Buchanan stated, "To me it would assuredly be psychologically satisfying to cut the innards from Ellsberg," an attitude which has brought his fellow White House staffer, Mr. Colson, a jail term.

<sup>71</sup> Testimony of John Dean, 4 *Hearings* 1490.

<sup>72</sup> Testimony of Clark MacGregor, 12 *Hearings* 5019.

<sup>73</sup> Testimony of Howard Hunt, 9 *Hearings* 3673; see also, executive session of Howard Hunt, pp. 121-122.

<sup>74</sup> Memo from John Dean to H. R. Haldeman, 8 *Hearings* 3171.

<sup>75</sup> *Id.*, at 3172.

<sup>76</sup> Exhibit 194, 10 *Hearings* 4259.

Nevertheless, Buchanan concluded that the Ellsberg issue would not "be turned around in the public mind by a few well-placed leaks." Lest there be any doubt about his position, he then stated, "This is not to argue that the effort is not worthwhile—but that simply we ought not now to start investing major personnel resources in the kind of covert operation not likely to yield any major political dividends to the President."<sup>77</sup>

No legal or moral problems for Buchanan; just an objection to the management end of it.

Mr. Buchanan also testified, as to documents surreptitiously taken from the Muskie campaign and photographed by "Fat Jack." Buchanan testified that he "did get the material on two occasions, and he did recommend that it be sent to columnists Evans and Novak. Evans and Novak did print, on two occasions, I believe, material from Muskie's campaign."<sup>78</sup> Here again was a high official, using the credibility of the White House, to peddle wrongfully obtained confidential information.

Material obtained secretly from the Commerce Department relative to Senator Muskie's apparently legitimate attempts to help the Maine sugar beet industry as their Senator was leaked to the press, for political purposes, when that industry began to fail.<sup>79</sup>

Information from the Department of Defense as to Senator McGovern's personal and confidential war records was recommended for leak to press.<sup>80</sup>

Testimony was received that Mr. Colson ordered the fabrication of State Department cables relative to the Kennedy administration's handling of President Diem's assassination, and recommended that this false information be leaked to Mr. William Lambert of Life magazine.<sup>81</sup> All this was a blatant attempt to improperly use Government power and responsibilities to distort the constitutional role of the press.

Finally, the official press spokesman for the White House consistently told the press and the American people versions of Watergate that were not true, when he and those who prepared him were in a position to know, or in fact knew, that his statements were untrue. The President himself misled the press in news conferences and official statements, as to the investigation, its results, and the substance of evidence involving himself and the Watergate matter.

The fourth amendment fared no better.

It guarantees the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. . . ." <sup>82</sup> It was expressly violated by burglaries and warrantless wiretaps.

As an example, this constitutional safeguard was at the center of illegalities contained in the so-called 1970 intelligence plan. In a colloquy during the course of this committee's hearings, the chairman and Mr. Dean discussed the elements of that intelligence plan. It was

<sup>77</sup> White House memo from Patrick Buchanan to John Ehrlichman, July 8, 1971.

<sup>78</sup> Testimony of Patrick Buchanan, 10 *Hearings* 3921.

<sup>79</sup> Memo to Charles Colson from Thomas Thawley, Deputy Assistant Secretary of Commerce, Apr. 16, 1971.

<sup>80</sup> Memo from Richard Howard to Fred Fielding, May 12, 1972 (this memo had an unusual instruction at the top: "Please Burn Before Reading").

<sup>81</sup> Testimony of Howard Hunt, 9 *Hearings* 3672.

<sup>82</sup> U.S. Constitution, amendment IV.

described as recommending (1) techniques for removing limitations on electronic surveillance and penetration, (2) the use of mail coverage, (3) a technique designated as surreptitious entry, (4) development of campus sources of information, and (5) the use of military undercover agents. The chairman rightly noted, and the witness concurred, that resort to burglary, electronic surveillance, and penetration without a court order is a clear violation of the fourth amendment.<sup>83</sup>

Nevertheless, on July 5, 1970, a memo written by Mr. Haldeman indicated that the President of the United States gave his approval to the plan.<sup>84</sup> There is additional evidence that events took place which closely parallel the recommendations in the 1970 plan. In contrast with the evidence that the plan was approved, there is no documentary evidence that the plan was at any time officially withdrawn, although one witness claimed it was.<sup>85</sup>

The instances of burglaries and wiretapping have been well documented. They include the break-in at Ellsberg's psychiatrist's office, the possible break-in at publisher Hank Greenspun's office, the four attempts and two successful break-ins at the Democratic National Committee headquarters, the plans to break in at McGovern's campaign headquarters, proposed penetrations of the Potomac Associates and the Brookings Institution, questionable wiretaps of newsmen and Government officials, wiretaps of Spencer Oliver, Lawrence O'Brien, and columnist Joseph Kraft. This disregard for the fourth amendment proceeded in spite of apparently severe warnings and objections by one of the most experienced figures in law enforcement in this Nation's history, J. Edgar Hoover.<sup>86</sup>

The fifth amendment was likewise violated. However, it is more appropriately discussed along with the 14th amendment in the next section examining due process of law.

The sixth amendment guarantees the right to a speedy trial, the right to the evidence of witnesses, and the right to subpoena evidence from witnesses,<sup>87</sup> an important principle in our system of justice.

While it may be temporarily obscured by the plight of high officials in Watergate, history will record that seven men were brought to trial in 1973 for the Watergate break-in. Six of those men spent considerable time in jail. To date no persons have paid a higher price for Watergate, through the justice system. When history judges our system of laws, the fairness of the trial those men went through will be at the fore.

Viewed in that light, the so-called coverup takes on a somewhat different significance. It was nothing less than a massive interference with the constitutional right of several American citizens to a fair trial. They were categorically denied the testimony of witnesses who possessed evidence that was critical to their defense. Perjury was planned and orchestrated from within the White House itself. Evidence was

<sup>83</sup> 4 *Hearings* 1455.

<sup>84</sup> Memo to Mr. Huston from H. R. Haldeman, July 14, 1970. Exhibit 36, 3 *Hearings* 1324; Presidential statement, May 22, 1973.

<sup>85</sup> Mr. Haldeman testified that the President approved the Huston plan, and that it was rescinded 5 days later with notification of the agency heads. Testimony of H. R. Haldeman, 8 *Hearings* 3030.

<sup>86</sup> Testimony of H. R. Haldeman, 7 *Hearings* 2874. Mitchell also expressed his disapproval of the 1970 Domestic Intelligence Plan to Mr. Hoover and Mr. DeLoach of the FBI and he "talked to both Mr. Haldeman and the President about the subject matter." Testimony of John Mitchell, 4 *Hearings* 1804.

<sup>87</sup> U.S. Constitution, Amendment VI.

destroyed. Key witnesses were excused from giving testimony before the grand jury, avoiding their constitutional duty. A speedy trial was opposed, not because it would result in greater justice, but because it served the political ends of the White House. Even the defendants themselves were paid to not give testimony, thereby denying any hope to at least one of them who might have preferred a fair trial. Offers of clemency, family support, and rehabilitation were used for the same purpose.<sup>88</sup>

In an opposite sense, the sixth amendment's guarantees of a witness' testimony were again subverted when counterlawsuits were undertaken against Democratic officials partly to use the power of taking witnesses' depositions, to get at embarrassing information.<sup>89</sup> Here the tactic was to put political opponents under oath and use that circumstance and power to elicit confidential information. Those who denied witnesses to their own, could not apparently resist enforcing and invoking the sixth amendment's guarantees when it came to their opponents.

#### D. DUE PROCESS OF LAW

The concept of due process put simply means the right to fair and just treatment under the law.

It is rooted in chapter 39 of the Magna Carta, in which King John declared that "no free man shall be taken or imprisoned . . . except by the lawful judgment of his peers or by the law of the land."<sup>90</sup>

Recent Supreme Court cases have described due process, which is guaranteed by the 5th and 14th amendments, as embodying "a system of rights based on moral principles so deeply imbedded in the traditions and feelings of our people as to be deemed fundamental to a civilized society as conceived by our whole history."<sup>91</sup>

Due process has been even more succinctly described by the Supreme Court as "that which comports with the deepest notions of what is fair and right and just."<sup>92</sup> It is the backbone of justice in America, and it was dramatically missing in the evidence of not only the Watergate criminal proceedings, but in the Ellsberg case and countless other cases with political overtones in the period directly leading to Watergate.

The particular phraseology associated with due process has been generally used in close association with precise safeguards of accused persons. Nevertheless, it is equally a restraint on action by the Government that unfairly discriminates against our citizens or the exercise of their rights. Those two guarantees have often been called procedural and substantive due process. Both were violated by the events leading to and including Watergate.

The obvious example of procedural abuses were the trials. In the Ellsberg case, information for use against the defendant was sought by means of a warrantless break-in, an act that eventually contributed to that case being dismissed. In addition, the presiding judge in that case was offered an attractive job, as FBI Director, in the midst of the

<sup>88</sup> Testimony of James McCord, 1 *Hearings* 131.

<sup>89</sup> Dean testified that the countersuits against the Democrats in the fall of 1972 demonstrate "the willingness to commence counteractions to avoid further prying into the situation at the White House." Testimony of John Dean, 4 *Hearings* 1473.

<sup>90</sup> Text and commentary on this chapter may be found in W. McKechnie, "Magna Carta—A Commentary on the Greater Charter of King John" (Glasgow: 1914).

<sup>91</sup> *Solebee v. Balkcom*, 339 U.S. 9, 16 (1950).

<sup>92</sup> *Ibid.*

trial.<sup>93</sup> The offer came from Mr. Ehrlichman, who was responsible for supervision of the so-called Plumbers, at a time when Ehrlichman knew about the break-in by the Plumbers, and presumably knew of its potential consequences. Dr. Ellsberg's right to a fair trial was also jeopardized by tactics that attempted to destroy his public image, discredit his associates, and attack publishers who printed the Pentagon papers. One of the President's closest advisers has been sentenced to 1 to 3 years in jail for that tactic.

The direct interference with a fair trial for the Watergate defendants has already been documented. In addition, those defendants were subjected to prejudicial public statements that they were "third-rate burglars," "blackmailers," and even "double agents." The important point is that the accusations came from the White House, and that the White House was in a position to remove those labels by following its legal duty of providing all relevant evidence.

Perhaps of even greater significance is the vast number of cases involving those accused of conspiracies against the United States. The improper use of wiretaps, agent provocateurs, and informers resulted in the dismissal of most of those cases.<sup>94</sup> While this was not directly a focus of the Watergate investigation, it became relevant in examining the climate and attitudes that led to the Watergate plan.

Criminal cases were not the only instances of due process violations. The "fair and right and just" application of our laws suffered when antitrust actions were generated on the basis of political considerations, when income tax audits were ordered because a newsman wrote an article the White House did not like, when an enemies list was compiled so that the laws could be applied more strictly or to the disadvantage of opponents, when White House staff members had access to FBI files pertaining to their own investigation, when they were given special treatment before a grand jury, when the intelligence gathered by the various agencies of our Government was collected, evaluated, and distributed in apparent violation of the agency statutes, when the military was used to spy on American citizens working for the Democratic Party.<sup>95</sup> All of this violated the fifth amendment and, in some cases, the 14th amendment. In the process, Watergate and its predecessor activities violated one of the broadest principles of our system of laws, a concept so fundamental that it is the basis of fully one-quarter of all litigation that comes before the Supreme Court of the land.

This is apparently what happens when the witness who was the Attorney General during most of that period can be asked whether he "exalted the political fortunes of the President before the President's responsibility to perform his constitutional duties to see that the laws are faithfully executed," and he responds, "I think that is a reasonable interpretation."<sup>96</sup>

<sup>93</sup> Testimony of John Ehrlichman, 6 *Hearings* 2617-19.

<sup>94</sup> In the White Panthers case, it was illegal wiretaps. In the Camden 28 case, it was the use of an agent provocateur; and in the 11 gambling, narcotics, and bribery cases in Miami it was illegal wiretaps.

<sup>95</sup> See, "General Powers and Duties," notes 10-94, pp. 1178-96 and accompanying text; see also, testimony of Senator Lowell Weicker, Jr., hearings on "Warrantless Wiretapping and Electronic Surveillance," Apr. 8, 1974.

<sup>96</sup> Testimony of John Mitchell, 5 *Hearings* 1895.

## II. THE GOVERNMENT

One of the significant patterns of evidence that emerged from this committee's investigation relates to the operation of government.

In the climate of Watergate there is a tendency to dismiss anything short of crimes. But there is great value to the facts that follow, not because they contain sensational crimes, but because they confirm a misuse of the intended functions of important institutions. It reflects a departure from legitimate government that if allowed to persist would be of far greater significance, over time, than any short-term criminal event.

### A. THE INTELLIGENCE COMMUNITY

The attitudes and policies that led to Watergate had a profound impact on the intelligence community, from the FBI and the CIA to the lesser intelligence sections of other agencies.

Soon after the new administration took office in 1968, there seems to have been a basic dissatisfaction within the White House as to our existing intelligence capabilities. They were variously considered too timid, too bound by tradition, and generally incapable of acting effectively with respect to what the White House perceived as necessary intelligence.

One of the responses by the White House was to set up a plan, an intelligence plan, so that the objectives, methods, and results of the intelligence community would coincide with the White House. This plan was drafted by Tom Charles Huston in early 1970,<sup>97</sup> and came to be known as the 1970 Domestic Intelligence Plan, or the Huston plan.

Much of the plan, which has been described previously,<sup>98</sup> was illegal, either in its objectives or in the methods it proposed. Nevertheless, there are numerous indications, in evidence received by this committee, that the types of activities recommended in the plan were carried out in the following years. The net effect was to subvert or distort the legitimate intelligence functions of the Government.

The plan recommended an expanded use of electronic surveillance. However, the expanded wiretapping that took place in succeeding years was done outside legitimate channels, such as the 17 so-called Kissinger taps,<sup>99</sup> the tap on Joseph Kraft,<sup>99a</sup> the Watergate wiretaps, and even the wiretap on the President's brother.<sup>1</sup>

<sup>97</sup> According to Mr. Haldeman, "the President set up an interagency committee consisting of the Directors of the FBI, the CIA, the Defense Intelligence Agency and the National Security Agency," and "Mr. Huston, the White House staff man for this project, was notified by a memorandum from me of the approval of the President." Testimony of H. R. Haldeman, 7 *Hearings* 2875.

<sup>98</sup> See, notes 83-86, p. 1194.

<sup>99</sup> Testimony of Robert Mardian, 6 *Hearings* 2392-93; John Ehrlichman, 6 *Hearings* 2529; and John Dean, 3 *Hearings* 920.

<sup>99a</sup> Testimony of John Dean, 3 *Hearings* 919. In June 1969, Ehrlichman directed Caulfield in lieu of the FBI to place a national security tap on Kraft's home phone. Caulfield contacted Jack Regan, former FBI agent, who ultimately installed the tap. Executive session of John Caulfield, Mar. 23, 1974.

<sup>1</sup> Presidential press conference, Nov. 17, 1973.

The second element of the plan called for surreptitious entries. Burglaries in fact took place at the office of Dr. Ellsberg's psychiatrist,<sup>2</sup> at the Democratic National Committee, at the office of publisher Hank Greenspun, according to multiple evidence;<sup>3</sup> and were suggested or planned for the offices of the Potomac Associates,<sup>4</sup> The Brookings Institution,<sup>5</sup> and Senator McGovern's campaign headquarters.<sup>6</sup>

Mail sent to an affiliate of the Democratic Party was opened and photographed by the U.S. Army, in a well-documented and apparently massive operation,<sup>7</sup> and military agents spied on the Concerned Americans in Berlin, a group of McGovern supporters who were officially recognized by the Democratic Party.<sup>8</sup>

The specific actions proposed by Huston are only one aspect of the plan. Equally important are the policy recommendations. The heart of this new policy was better coordination and use of existing intelligence from all areas of the government.<sup>9</sup> The means of carrying it out was to be a new intelligence "Committee" sitting above all the agencies. Again, the plan was carried out.

On September 17, 1970, an Intelligence Evaluation Committee was set up in the White House.<sup>10</sup> It was to receive information from the CIA, the FBI, and the National Security Agency, and other intelligence sections. Notwithstanding the fact that the statutes prohibit the CIA from participating in any domestic intelligence function, it was called upon to evaluate domestic intelligence gathering by the other agencies when the Intelligence Evaluation Committee was set up. This intelligence was to be digested by the CIA experts and then disseminated for use wherever useful, regardless of the statutory limits placed on the agency that collected the information.<sup>11</sup>

What was important about setting up that committee was not the work it actually did, but rather the legitimization of a concept. That concept was that intelligence functions of the various agencies were there for whatever purpose the executive decided it wanted, not for the purposes Congress decided by statute.

As an illustration, Mr. McCord testified that he eventually received information for use by CRP from the Internal Security Division of the Justice Department, on a daily basis.<sup>12</sup> It included information from the FBI, pertained to individuals, and was of a political as well as nonpolitical nature.<sup>13</sup> This arrangement was made pursuant to a

<sup>2</sup> Testimony of Howard Hunt, 9 *Hearings* 3663.

<sup>3</sup> Testimony of Howard Hunt, 9 *Hearings* 3687. See Transcripts of Presidential Conversations, Sept. 15, 1972.

<sup>4</sup> White House memo, July 6, 1971, from John Caulfield to John Dean, stating in part, "a penetration is deemed possible if required."

<sup>5</sup> Testimony of John Dean, 3 *Hearings* 920; executive session of John Caulfield, Mar. 23, 1974.

<sup>6</sup> Testimony of Howard Hunt, 9 *Hearings* 3686.

<sup>7</sup> See testimony of Senator Lowell P. Weicker, hearings on "Warrantless Wiretapping and Electronic Surveillance," relating to intelligence activities of the U.S. military directed against "The Concerned Americans in Berlin," an affiliate of the American Democratic Party. (Exhibit 8.)

<sup>8</sup> *Ibid.*

<sup>9</sup> This was the final section of the 1970 domestic intelligence plan, entitled "Measures to Improve Domestic Intelligence Operations." Exhibit 35, 3 *Hearings* 1323. See testimony of John Dean, 4 *Hearings* 1457.

<sup>10</sup> The memo to the Attorney General describing the setting up of the IEC was quoted in full in the text of the hearings, 3 *Hearings* 1063.

<sup>11</sup> Testimony of John Dean, 3 *Hearings* pp. 916-19, 1057-74, and 4 *Hearings* 1457.

<sup>12</sup> McCord received information, including FBI data, from the Internal Security Division of the Justice Department, upon his request to Attorney General Mitchell. Mitchell told Mardian to direct McCord to I.S.D., where McCord's contact was John Martin, Chief of the Evaluation Section. Testimony of James McCord, 1 *Hearings* 178.

<sup>13</sup> *Id.*, at 181.

request sent to Mr. Mitchell from Mr. McCord, which led to a call from Assistant Attorney General Mardian in which he relayed the Attorney General's approval and told McCord to work through the Internal Security Division.<sup>14</sup>

The Internal Security Division of the Justice Department also provided political legal assistance to the White House. For example, it provided information regarding demonstrators, and information that would embarrass individuals in connection with their relationship with demonstrators and demonstration leaders.<sup>15</sup>

Another illustration of misuse of intelligence was the request made to the IRS, on July 1, 1969, by Mr. Huston, to set up a means of "reviewing the operations of ideological organizations."<sup>16</sup> Soon the IRS had set up an "Activists Organizations Committee,"<sup>17</sup> collecting intelligence to "find out generally about the funds of these organizations." An internal memo pointed out that "its activities should be disclosed generally only to those persons who need to know, because of its semisecretive nature." "We do not want the news media to be alerted to what we are attempting to do or how we are operating because the disclosure of such information might embarrass the administration." "The type of organization in which we are interested may be ideological . . . or other." "In effect, what we will attempt to do is to gather intelligence data on the organizations in which we are interested and to use a strike force concept."<sup>18</sup> This was not tax collection; it was the IRS being converted into an intelligence agency; and it was stopped in the midst of this committee's hearings in mid-1973.

The next step was when the IRS began gathering intelligence from other parts of the Government, with no attempt made to restrict this to tax-related information. Arrangements were made with the military, the Internal Security Division of the Justice Department, and the Secret Service to turn over information on individuals or groups.<sup>19</sup> So long as the IRS has the power to be a potential harassment for the average citizen if audits are not conducted on an objective basis, this procedure of developing files on dissenting citizens must be questioned. The more important point is that IRS duties and responsibilities are spelled out by the Congress, and such an intelligence operation is not one of them.

The IRS and the Justice Department were not the only agencies pressured into assisting White House intelligence demands. A Secret Service agent spied on Senator McGovern,<sup>20</sup> when supposedly protecting him during the campaign. When the White House was informed of this, no objection was made.

<sup>14</sup> *Id.*, at 178.

<sup>15</sup> Testimony of John Dean, 3 *Hearings* 916-19.

<sup>16</sup> Memo from Tom Huston to Roger Barth, Assistant Commissioner of IRS, Aug. 14, 1970.

<sup>17</sup> See testimony of Senator Lowell P. Weicker, hearings on Warrantless Wiretapping and Electronic Surveillance, Apr. 8, 1974 (exhibit 1, memo by D. O. Virdin of the IRS; report of meeting to set up an "Activists Organizations Committee").

<sup>18</sup> *Ibid.*

<sup>19</sup> For example, on Dec. 4, 1969, D. W. Bacon, Assistant Commissioner, IRS, contacted Col. Heston C. Cole, Counterintelligence Division, Directorate Office of Special Investigations; and on Jan. 26, 1970, the IRS contacted Director Rowley of the Secret Service, in both cases to coordinate intelligence-gathering operations through the Activists Organizations Committee. See testimony of Senator Lowell P. Weicker, hearings on Warrantless Wiretapping and Electronic Surveillance, Apr. 8, 1974.

<sup>20</sup> White House memo from Steve Karalekas to Charles Colson, Aug. 16, 1972, referring to the activities of Agent Bolton. See also testimony of John Dean, 3 *Hearings* 923, 1071.



An FBI agent was used by a White House staff member to spy on a Long Island newspaper doing an article on one of the President's friends.<sup>21</sup> The Commerce Department was called on to provide commercial information in a project that it was hoped would embarrass Senator Muskie.<sup>22</sup> The Department of Defense was used to find out information as to Senator McGovern's war records, at a time when there were public charges that he may have acted with cowardice.

There was testimony to the effect that there was nothing short of a basic policy to use any governmental agencies to seek politically embarrassing information on individuals who were thought to be enemies of the White House. The so-called enemies list was maintained in the White House for this purpose, and a memo was prepared to implement a means of attacking these enemies.<sup>23</sup>

Apparently it was not enough to maneuver the intelligence community and related agency functions. Plans were made to take what is clearly a function of Government outside the Government, to set up an independent intelligence operation.

The first plan was put forth by Mr. Caulfield, in proposals to Messrs. Dean, Mitchell and Ehrlichman. He suggested a private security entity that would be available for White House special projects, thereby insulating the White House from its deeds. It was called Operation Sandwedge.<sup>24</sup>

Mr. Caulfield rejected the Sandwedge plan, and it was apparently replaced with an operation that came to be known as the "Plumbers." In the meantime, Caulfield began conducting intelligence functions from a position on the White House counsel's staff, functions that properly belonged in the agencies, if anywhere.

Caulfield was instructed, for example, to develop political intelligence on Senator Kennedy, including instructions from the Assistant Attorney General to obtain certain information about the travels of Mary Jo Kopechne.<sup>25</sup> When he took the job, he told Mr. Ehrlichman that he would hire an ex-New York City policeman to do investigative work.<sup>26</sup>

Mr. Ulasewicz was then used to collect information on various enemies, political, ideological, and personal. A sample of his activities reveals not only why intelligence should not be outside the checks of a

<sup>21</sup> John Caulfield testified that he requested a New York City FBI agent to go out to the Newsday offices. This was done, and included a report of the newspaper's confidential publication schedule. Executive session of John Caulfield, Mar. 23, 1974.

<sup>22</sup> Memo to Charles Colson from Thomas Thawley, Deputy Assistant Secretary of Commerce, Apr. 16, 1971.

<sup>23</sup> White House memo from John Dean, Aug. 16, 1971, entitled "Dealing With Our Political Enemies." Exhibit 48, 4 *Hearings* 1689.

<sup>24</sup> Drafted in late summer 1971, Operation Sandwedge called for an offensive intelligence-gathering operation for infiltration of campaign organizations and headquarters with "undercover personnel, surveillance of Democratic conventions and meetings, derogatory information-seeking investigations, and 'black bag' activities. Though dropped from active consideration by late 1971, Operation Sandwedge can be seen as a precursor of the Gemstone Plan which achieved the capabilities championed by Caulfield. See Caulfield Executive Session, Mar. 23, 1974; See also, Campaign Practices Section of Select Committee Report, exhibit of memorandum of Caulfield to Dean entitled "Operation Sandwedge." See also 2 *Hearings* 786; 3 *Hearings* 924-26; 6 *Hearings* 2537.

<sup>25</sup> In the summer of 1969, when Dean was working at the Justice Department, "then Deputy Attorney General Kleindienst called (Dean) into his office and told (him) that the White House wanted some very important information . . . regarding the foreign travels of Mary Jo Kopechne." Dean was directed to obtain the information from Mr. De Loach, Deputy Director of the FBI, and give it to John Caulfield from the White House. 3 *Hearings* 922.

<sup>26</sup> Ehrlichman appointed Caulfield to the White House staff on Apr. 8, 1969, as a liaison with various law enforcement agencies, with the understanding that the services of Mr. Ulasewicz, a retired New York detective, would be obtained. Commencing July 1969, Ulasewicz reported on his investigatory activities to the White House through Caulfield, on the orders of Mr. Ehrlichman and Mr. Dean. 1 *Hearings* 251.

professional organization, but also the rather broad scope of what the White House was in fact doing. His investigations included such things as Richard Nixon's old apartment in New York, a Kennedy official trip to Hawaii, name checks on White House visitors, the President's brother, political contributors to a dozen Senators who opposed the administration, Jefferson Hospital in Philadelphia, Louis Harris Polls, the Businessmen's Education Fund, the House of Mercy home for unwed mothers, the U.S. Conference of Mayors, a comedian named Dixon, Mrs. Rose Kennedy's secretary, and Birmingham, Ala. city council, mayor, and executive staff.<sup>27</sup> And that is just a sample of the much larger number of his investigations. Many of them are clearly the responsibility of established agencies, if they are anybody's responsibility at all.

Eventually, a semiofficial unit, the Plumbers, was established within the White House, with a combination of police and intelligence duties. It conducted what Mr. Mitchell referred to in his testimony as the "White House horrors."<sup>28</sup> According to Mitchell, these operations were so wrong that if the President had heard about them he would have lowered the boom, even though there is other evidence that the President did know about them and didn't lower any boom.<sup>29</sup>

The legitimate intelligence agencies were used to support this operation, specifically by providing materials for their operations. General Cushman of the CIA testified that after a personal request from Mr. Ehrlichman, CIA technical services people provided Mr. Hunt with a drivers license, social security card, wig, and speech altering device, which were delivered to a "safe house" of CIA premises per Hunt's instructions.<sup>30</sup>

Around August 1971, Hunt began to make additional demands on the CIA: first, for a stenographer to be brought in from Paris, which Cushman and Director Helms considered merely a face-saving move and rejected. Later demands were made for a tape recorder in a typewriter case, a camera in a tobacco pouch, for film development, and for an additional alias and false papers for another man ("probably Liddy"), which requests came to Cushman's attention after they had been granted by the technical services people.<sup>31</sup>

After Hunt's additional demands and a subsequent request for a New York address and phone services, Cushman and Helms decided Hunt's requests had exceeded his original authority. On August 31, 1971, Hunt made a final request, for a credit card, which was denied.<sup>32</sup>

Mr. Young of the Plumbers unit asked the CIA to do a psychological profile of Dr. Ellsberg. It was clearly a domestic project, the only one of its type ever requested, according to General Cushman of the CIA, who also testified that such profiles are reserved for foreign leaders. Nevertheless, it was done, but Mr. Young considered it unsatisfactory, so another profile was prepared and sent.<sup>33</sup> Other projects

<sup>27</sup> See, committee interviews with Mr. Ulasewicz, Mr. Dean, Mr. Caulfield, Anne Dawson, Tony LaRocco.

<sup>28</sup> Mr. Mitchell described the Plumbers' activities which he learned of from Mr. Mardian and Mr. LaRue. as the "White House horror stories." 4 *Hearings* 1624-25.

<sup>29</sup> On Mar. 22, 1973, the day after Mr. Dean told the President of the Watergate-related White House horrors and other facts, the President, according to Mitchell, discussed the possibility of using Dean as a liaison with the Ervin Committee, rather than lowering any boom. 5 *Hearings* 1894.

<sup>30</sup> 8 *Hearings* 3292-93.

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> *Id.*, at 3311.

spanned a broad range, such as spiriting Dita Beard from the East Coast to a Denver hospital, and a subsequent trip to Denver by Hunt in disguise to question her about the ITT affair.<sup>34</sup> To bring the full influence of the White House to bear on this extraordinary activity, Mr. Ehrlichman testified that he personally introduced Messrs. Krogh and Young, who headed up the Plumbers to the heads of various agencies, such as the Secretary of Defense, the Attorney General, and the Director of the CIA.<sup>35</sup>

Members of the Plumbers eventually went on to similar work for the Committee To Re-Elect. Although they were clearly outside the Government, they again used the legitimate agencies. Ex-CIA employees were recruited on the basis of their loyalty to the CIA. National security responsibilities were misused. Mr. Barker was even told that the interests of national security he was serving were above the FBI and the CIA.<sup>36</sup> To reinforce this position, classified and critical information about the mining of Haiphong harbor was relayed to Barker the day before the President's announcement.<sup>37</sup> This was not only a misuse of secret Defense Department intelligence, but it also furthered a misuse of national security entrustment in the executive branch.

In a different type of situation, Mr. Haldeman was appointed "the Lord High Executioner of leaks." This technique of attacking and solving the leaks problem illustrates the contempt for normal Government functions. It resulted in Mr. Caulfield, by his own testimony, being directed by Ehrlichman to wiretap a newsman's telephone (Joseph Kraft) in pursuit of a leak,<sup>38</sup> outside the safeguards of Government wiretap procedures and regulations. There are capabilities within the legitimate operations of our Government for handling such a problem. The attitude that these problems had to be treated independently was the same attitude that led to the 17 Kissinger taps being installed outside normal FBI channels and Mardian's instructions from the President regarding the disposition of those wiretap logs "that related to newsmen and White House staff suspected of leaking,"<sup>39</sup> and that led to unusual and perhaps illegal White House involvement in the Ellsberg case itself.

There is a reason for demanding that Government officials use only the tested and accountable facilities of Government. It has been illustrated by the kind of projects undertaken independently by the White House.

The final contempt for the intelligence community can be seen in efforts to exploit them in the coverup. Mr. Ehrlichman said that he and Mr. Haldeman had spoken to General Walters and Mr. Helms of

<sup>34</sup> Shortly after the ITT memo was published in February 1972, Mr. Liddy transported Dita Beard from Washington to a hospital in Denver. In his interview there, Mr. Hunt elicited from Dita Beard a public statement that the memo was a fraud. Testimony of Robert Mardian, 6 *Hearings* 2359; Howard Hunt, 9 *Hearings* 3752-53.

<sup>35</sup> Mr. Ehrlichman testifies further that Mr. Krogh and Mr. Young "described the function of the special unit" (the Plumbers) to the heads of the various agencies. 7 *Hearings* 2691.

<sup>36</sup> Testimony of Bernard Barker, 1 *Hearings* 360.

<sup>37</sup> Mr. Hunt testified that he was "in very general terms aware of" the President's speech announcing the bombing of Haiphong harbor prior to the speech. Hunt requested that Mr. Barker "attempt to have as many telegrams as possible sent to the White House . . . manifesting approval of the President's move." Testimony of Howard Hunt, 9 *Hearings* 3745-46.

<sup>38</sup> See note 21, p. 1179.

<sup>39</sup> The President instructed Mr. Mardian in the fall of 1971 to transfer the logs from Mr. Sullivan, Assistant Director of the FBI, to Mr. Ehrlichman, who kept them in his safe for over a year. Testimony of John Dean, 3 *Hearings* 920-21.

the CIA shortly after the Watergate break-in.<sup>40</sup> Ehrlichman further said that Walters was a friend of the White House and was there to give the White House influence over the CIA.<sup>41</sup> Dean testified that Ehrlichman asked him to explore the possible use of the CIA with regard to assisting the Watergate burglars.<sup>42</sup>

On June 23, 1972, Mr. Haldeman and Mr. Ehrlichman met with Director Helms and General Cushman of the CIA. According to Director Helms, Haldeman said something to the effect that it had been decided that General Walters was to go talk to FBI Director Gray and inform him that "these investigations of the FBI might run into CIA operations in Mexico" and that it might be best if they were tapered off—or something like that.<sup>43</sup> According to General Walters, Haldeman directed Helms to inhibit the FBI investigation on grounds that it would uncover CIA assets in Mexico. Haldeman also indicated he had information the CIA did not have, and that five suspects were sufficient.<sup>44</sup> When Director Helms and Director Gray of the FBI scheduled a meeting between themselves on June 28, 1972, Mr. Ehrlichman intervened and canceled the meeting, thus preventing any independent contacts.

At a later time, Mr. Dean discussed with General Walters the possibility of using covert CIA funds to pay the Watergate defendants.<sup>45</sup> In February 1973, the CIA was asked by the White House to take custody of Justice Department files on Watergate, but the request was denied.<sup>46</sup>

Mr. McCord testified that at the time of the Watergate trial, pressure was brought on himself and other defendants to claim for purposes of a defense that Watergate was a CIA operation.<sup>47</sup>

The FBI was likewise abused in numerous ways. Some of these, such as turning over Hunt's files to Mr. Gray, have been well documented. But there were other examples. The FBI set up the so-called Kissinger wiretaps outside channels, effectively insulating them from routine discovery and accountability, and at the President's instructions, Mr. William Sullivan (who had supervised the wiretaps) turned over all evidence of them to the White House when it was reportedly related to the President that Hoover might use them to preserve his job.<sup>48</sup> The FBI ran an investigation of CBS newsman Daniel Schorr, in what was a White House tactic to embarrass him, according to one witness.<sup>49</sup>

<sup>40</sup> Ehrlichman and Haldeman were instructed to insure that covert CIA activities were not exposed by the Watergate investigation being conducted by the FBI. 6 *Hearings* 2557.

<sup>41</sup> On June 26, 1972, Mr. Dean on Mr. Mitchell's suggestion, sought through Mr. Ehrlichman to contact the CIA as to the Watergate break-in. 3 *Hearings* 946.

<sup>42</sup> Mr. Dean indicated to General Walters that witnesses were wobbling and could cause problems, and asked if the CIA could raise bail for some of these defendants. Testimony of John Dean, 3 *Hearings* 1037; 4 *Hearings* 1461.

<sup>43</sup> Testimony of Richard Helms, 8 *Hearings* 3238.

<sup>44</sup> Memorandum of General Walters, exhibit 101, 7 *Hearings* 2948-49.

<sup>45</sup> Testimony of John Dean, 3 *Hearings* 1037.

<sup>46</sup> On February 9, 1973, Mr. Dean called the new Director of the CIA, Mr. Schlesinger, and suggested that the Justice Department be required to return to the CIA a package of all the materials turned over to Justice regarding Hunt and the break-in at Dr. Fielding's office. Mr. Schlesinger and General Walters decided this was "out of the question." Testimony of General Walters, 9 *Hearings* 3417-19.

<sup>47</sup> Testimony of James McCord, 1 *Hearings* 193-98.

<sup>48</sup> In July 1972, Mr. Sullivan, Associate Director of the FBI, informed Mr. Mardian of the existence of "some very sensitive national security surveillance logs that were not . . . in-channel," that Mr. Hoover might use to preserve his job. Mr. Mardian then flew by courier plane to see the President in San Clemente, who directed him to obtain the reports from Mr. Sullivan and deliver them to Mr. Ehrlichman. Testimony of Robert Mardian, 6 *Hearings* 2392-93.

<sup>49</sup> Mr. Haldeman requested Mr. Higby to direct the FBI to investigate Daniel Schorr. But "to the dismay of the White House, Mr. Hoover proceeded with a full field wide-open investigation" which became apparent and "put the White House in a rather scrambling position to explain what had happened." Ultimately the White House attempted to explain that Mr. Schorr was being considered for a Presidential appointment in the environmental field. Testimony of John Dean, 3 *Hearings* 1071.

Mr. Ehrlichman testified that he was instructed after the Watergate break-in to see to it that the FBI investigation did not uncover the Ellsberg break-in or get into the Pentagon Papers episode.<sup>50</sup>

In the end, the wake of Watergate left a distorted intelligence community whose historic professionalism had been badly damaged.

### B. LAW ENFORCEMENT AGENCIES

The primary responsibility for law enforcement falls to the Department of Justice. To the extent that White House or political considerations interfered with that responsibility, it interfered with a critical part of our Government.

There was considerable evidence of White House contacts, including pressure and interference, with respect to the Watergate investigation. It began almost immediately after the break-in, with a request to the Attorney General that he try to obtain the release of Mr. McCord.<sup>51</sup> In the following days, he was warned about a too aggressive investigation, he was warned in mid-1972 that Magruder might have to plead the fifth amendment, he was asked to provide raw FBI files on the case, and he was asked to be the White House secret contact with this committee.<sup>52</sup> As noted earlier, an agency of the Justice Department, the FBI, was consciously lied to, was asked for raw files, its Director was given potentially embarrassing evidence from the safe of one of the Watergate burglars, with instructions he interpreted as a request to destroy that evidence.

The White House counsel testified that he in fact received information from the Justice Department and the FBI on the Watergate case. Mr. Dean stated that he was asked by Mr. Mitchell, after Mitchell had left CRP, to get FBI 302 reports of interviews with witnesses, and that Mr. Haldeman and Mr. Ehrlichman also thought it would be a good idea to get those reports. Mr. Mardian, attorneys O'Brien and Parkinson, and Mr. Richard Moore all viewed those files after Dean obtained them. Dean pleaded guilty to an "information" charge in October 1973, which charge included a conspiracy based on White House access to those files.<sup>53</sup>

There were similar pressures as to the whole Ellsberg matter. When Assistant Attorney General Petersen advised the President of the Ellsberg break-in, he was told, "I know about that," and "You stay out of that."<sup>54</sup>

The Antitrust Division of the Justice Department received requests, which have been reviewed earlier as to the media, to go after targets of White House dislike.

<sup>50</sup> Testimony of John Ehrlichman, 6 *Hearings* 2544.

<sup>51</sup> On the suggestion of Messrs. Mitchell, LaRue, and Magruder, then Attorney General Kleindienst was contacted at the Burning Tree Country Club, while playing golf, by Mr. Liddy and Mr. Powell Moore, to "see if there was any possibility that Mr. McCord could be released from jail. The Attorney General rebuffed this request." Testimony of Jeb Magruder 2 *Hearings* 798.

<sup>52</sup> Sometime after July 7 or 8, Ehrlichman called Kleindienst to tell him that Petersen had refused Ehrlichman's orders to "not harass" Secretary Stans with respect to interrogations. Kleindienst told Ehrlichman to never again give orders to Justice Department personnel, and if this was the President's desire, then Kleindienst would resign as Attorney General. Testimony of Richard Kleindienst, 9 *Hearings* 3564-65.

Ehrlichman testified that, based on what Dean had told him about "the unfolding of this thing, that Mr. Magruder may have some involvement and that culminated in a meeting with the Attorney General at the end of July, on July 21 . . ." Testimony of John Ehrlichman, 6 *Hearings* 2554.

<sup>53</sup> *U.S. v. Dean*, D.D.C. No. 886-73.

<sup>54</sup> Mr. Petersen was so concerned about the President's directive that he consulted Attorney General Kleindienst and both of them considered going to the President and threatening to resign unless the Justice Department was allowed to investigate the Ellsberg matter. Testimony of Henry Petersen, 9 *Hearings* 3631-32.

After the Association of Milk Producers pledged \$2 million to the President's campaign, a grand jury investigation of their association was halted by the Attorney General.<sup>55</sup> Nevertheless, antitrust violations were allowed to be pursued as a civil, as opposed to criminal, suit.<sup>56</sup> The antitrust suit was in fact brought in February 1972, in spite of much White House concern by Messrs. Colson and Halde-  
man.<sup>57</sup> The milk producers discussed their antitrust suit with Treasury Secretary Connally in March 1972, resulting in a call to the Attorney General.<sup>58</sup> Other contacts with the Attorney General were made on behalf of the milk producers, and an attempt was made to give additional contributions in return for dropping the antitrust suit.<sup>59</sup>

A similar pattern of efforts to obtain favorable treatment from the Attorney General in an antitrust matter followed the transfer of \$100,000 by the Hughes Tool Co. to a friend of the President. The Hughes Corp. was involved in antitrust problems related to pending purchases of a hotel in Las Vegas and an airline corporation.<sup>60</sup> At the time the money was being transferred, a representative of the corporation met with the Attorney General. The antitrust problems were subsequently resolved.<sup>61</sup>

The grand jury system, an essential element of the prosecution process, was subverted by members of the administration and CRP, even to the point of special favors for such officials when they were to be called before the grand jury. According to one witness, Mr. Ehrlichman attempted to prevent former Commerce Secretary Stans from appearing before the Watergate grand jury by directing Assistant Attorney General Peterson not to call Stans. Stans' testimony was eventually taken in private, as was the testimony of Messrs. Colson, Kehrli, and Young.<sup>62</sup>

It should be recalled that the Attorney General doubled as a campaign manager from July 1971, until he resigned in April 1972. When asked if it wasn't improper "for the chief law enforcement officer of the United States to be engaging in, directly or indirectly, managing political activities," the Attorney General responded, "I do, Senator."<sup>63</sup> He held this dual role while a number of large campaign contributors, such as the Association of Milk Producers, the Hughes Tool Co., and International Telephone & Telegraph had important cases under investigation by the Justice Department. The Attorney General who succeeded him pleaded guilty to a charge pertaining to the ITT matter.<sup>64</sup>

<sup>55</sup> See Affidavit of Bruce Wilson to the Senate Select Committee on Presidential Campaign Activities.

<sup>56</sup> See Letter from Richard W. McLaren to David M. Dorsen, Assistant Chief Counsel, Senate Select Committee on Presidential Campaign Activities, dated May 10, 1974.

<sup>57</sup> See the Milk Fund Investigation, part VI, Milk Producer Contribution Activity in 1972 prior to Apr. 7—and the Justice Department antitrust suit against AMPI (*supra*), particularly Strachan exhibits 7-10.

<sup>58</sup> *Id.*, part VI.D.2.

<sup>59</sup> *Id.*, part VI.E.1 and 2.

<sup>60</sup> See Hughes-Rebozo Report, Dunes Hotel case, of the Senate Select Committee on Presidential Campaign Activities (*supra*).

<sup>61</sup> *Ibid.*

<sup>62</sup> "Mr. DASH. You said you did agree on a concession. Could you tell us where was Mr. Stans interrogated?"

"Mr. PETERSEN. He was interrogated in my conference room by the prosecutors on the case with a reporter present and no one else."

"Mr. DASH. And not before the grand jury?"

"Mr. PETERSEN. No, sir."

"Mr. DASH. Who else, by the way, was given a similar concession during the investigation?"

"Mr. PETERSEN. Colson, Kehrli, and Young."

<sup>63</sup> Testimony of John Mitchell, 5 *Hearings* 1856.

<sup>64</sup> Former Attorney General Richard Kleindienst pleaded guilty on May 16, 1974, to one count of refusing to testify, a misdemeanor, in the ITT case, receiving a suspended sentence of 1 month in jail and a \$100 fine.

The prestige of the Attorney General's office was misused. Mr. McCord testified that a very important reason for his participation in the Watergate operation was "the fact that the Attorney General himself, Mr. John Mitchell, at his office had considered and approved the plan, according to Mr. Liddy."<sup>65</sup> Mr. Baldwin was told that if at any time he had trouble establishing his authority for being in a certain place or for having a weapon, he was to mention John Mitchell.<sup>66</sup> In an outrageous insult to our law enforcement institutions, it was in the Attorney General's office on January 27, 1972, and on February 4, 1972, that Liddy's plan was presented, including expensive charts outlining mugging, bugging, burglary, kidnaping, and prostitution.

The Justice Department was not alone.

Some of the most blatant attempts to pressure an agency charged with enforcing laws were aimed at the IRS. The conversation between the President and Messrs. Dean and Haldeman on September 15, 1972, states this clearly, criticizing the IRS for not being sufficiently "responsive" to personal and political demands.<sup>67</sup> It is buttressed with evidence that the IRS was contacted in relation to cases involving friends of the White House.<sup>68</sup>

The confidential tax return information of Mr. Harold J. Gibbons, vice president of the Teamsters, was turned over to Mr. Colson. It is significant that the memo discussing Gibbons' taxes points out that he supported Senator McGovern;<sup>69</sup> in fact, he was the only major Teamster official to support McGovern, and the only one whose taxes were apparently sent to the White House.

The tax data for a prominent Jewish leader in Rhode Island was given to Mr. Dean's office, along with confidential tax return information on a number of prominent entertainers. Tax audits of Democratic Party Chairman Lawrence O'Brien were sought in an attempt to come up with damaging information. In contrast, IRS contacts were used to help in audits of the President's friends, including actor John Wayne, the Reverend Billy Graham, and Mr. Charles G. Rebozo.<sup>70</sup>

A close friend of the President's, according to Mr. Dean "thought he was being harassed by the agents of the Internal Revenue Service."

<sup>65</sup> Testimony of James McCord, 1 *Hearings* 128.

<sup>66</sup> Mr. Baldwin further testified: "I felt that I was in no position to question John Mitchell"; and Baldwin therefore did not question the legality of his own Watergate-related activities. Testimony of Alfred Baldwin, 1 *Hearings* 409.

<sup>67</sup> Mr. Dean testified that on September 15, 1972, he discussed with the President "using the Internal Revenue Service to audit the returns of people," and that this was in keeping with earlier discussions with Haldeman wherein Dean was requested that "certain individuals have audits commenced on them." Dean replied to the President that the IRS had not been happy with the prior requests and, according to Dean, the President told him to keep a good list, so that "we would take care of these people after the election." Haldeman added "that he had already commenced a project to determine which people in which agencies were responsive and were not responsive to the White House." Testimony of John Dean, 4 *Hearings* 1480-81.

<sup>68</sup> Mr. Dean testified to several requests made to him to intervene on behalf of "friends" tax reports. One case involved the Justice Department, and two other cases resulted from complaints by John Wayne and Billy Graham, who felt they were being harassed by the IRS. Dean's assistant, Mr. Caulfield, contacted the IRS, which allowed him to see Graham's sensitive case report out of Atlanta and which forced the local agent to justify his audit of Wayne. Testimony of John Dean, 4 *Hearings* 1530, 1559; executive session of John Caulfield, Mar. 23, 1974, pp. 47-48; interview with Mike Acree, Sept. 27, 1973, p. 7.

<sup>69</sup> Mr. Colson's memo not only mentioned "that there are income tax discrepancies involving the returns of Harold J. Gibbons," but was also interested that "if there is an informer's fee, let me know." Exhibit 45, 4 *Hearings* 1686. It is worth pointing out that none of the official duties of Mr. Colson at the White House would legally justify him having access to citizens' tax returns, except upon specific request of the President.

<sup>70</sup> Sensitive cases, such as the President's friends, large contributors, or prominent political figures, were sent to the White House. Testimony of John Dean, 4 *Hearings* 1529. Roger Barth, assistant to the IRS Commissioner, would also call John Ehrlichman directly, and the Secretary of the Treasury would contact the President directly, in the process of bringing sensitive case reports to White House attention. Interview with Roger Barth, July 31, 1973, pp. 7-8.

Dean raised this with Mr. Walters (Commissioner of the IRS) who said that could not be the case. Dean kept checking the status of the case, because he "got questions on it with considerable regularity." Dean stated that "it was Rose Mary Woods who kept asking me the status of the case because this individual was seeing the President a good deal." The case was referred to the Criminal Division of the Justice Department. Dean was told he had to do something about it, so he eventually saw Mr. Ralph Erickson at the Justice Department, who said "there is one more thing we can do; there are some weaknesses in the investigation and we may send it back to the Internal Revenue Service for one last look to see if this follows, it really is a solid case," which to Dean's recollection was done.<sup>71</sup>

Nevertheless, the President was not satisfied and suggested that changes be made at the IRS after the 1972 election. In addition, Mr. Dean prepared a briefing paper for Mr. Haldeman with respect to a meeting with the head of the IRS, to make the IRS more responsive to the White House.<sup>72</sup> Mr. Strachan testified that Mr. Haldeman discussed a more politically responsive commissioner of the IRS so that it could be used against political opponents such as Clark Clifford.<sup>73</sup>

The IRS was not only contacted with respect to individual cases, it was also the focal point of certain questionable policies. One of these policies was to "punish" groups, tax exempt groups in particular, who were thought to hold ideological views different from the White House. There was no evidence that these organizations advocated or did anything illegal or unconstitutional, or that they in any way violated the tax laws. Nevertheless, they were singled out for challenge as to the tax exempt benefits they enjoyed under the law. Groups enjoying the same benefits who were sympathetic to the administration did not receive the same attack.

Use of the Secret Service to spy on Senator McGovern has already been reviewed.

The misuse of the CIA and the FBI have likewise been examined earlier.

It is quite a record for a "law and order" administration.

### C. REGULATORY AGENCIES

The regulatory agencies, as much as any other area of Government, fit the references in a White House memo which addressed the general problem of how to use the incumbency and power of the White House against opponents, or "how we can use the available Federal machinery to screw our political enemies."<sup>74</sup>

We have already reviewed numerous misuses of the IRS against political opponents. We have likewise reviewed evidence of plans to make the IRS more responsive to White House problems and demands.

A prime example of the distortion of regulatory power is contained in the record of the administration's plans to attack the media. The agency at the center of this plan was the FCC.

<sup>71</sup> 4 *Hearings* 1530, 1539, 1559. This case involved Dr. Kenneth Riland. Dr. Riland was subsequently acquitted of income tax evasion by a Federal jury.

<sup>72</sup> One document submitted by Mr. Dean (exhibit 44) is a briefing paper for H. R. Haldeman for a meeting with the head of the IRS, to make the IRS more responsive to the White House. 4 *Hearings* 1349.

<sup>73</sup> Testimony of Gordon Strachan, 6 *Hearings* 2486-87.

<sup>74</sup> White House memo from John Dean, August 16, 1971, entitled "Dealing with our Political Enemies." Exhibit 48, 4 *Hearings* 1689.



The Federal Communications Commission licenses radio and television stations, and is thereby in a unique position to hurt the networks or any other organization such as a newspaper that owns a local station. The memos on this subject which have been reviewed previously, were frightening at best. They demonstrate clear contempt for statutory restraints on the power given to the FCC by Congress.

A good sample of the attitude toward agencies is a memo from Mr. Jeb Magruder to Mr. Ken Reitz which notes that ACTION, the agency that coordinates Government volunteer programs, "is an agency that we should be able to use politically." The memo recommends a meeting with ACTION's Director to discuss how "we used their recruiters (who talked to 450,000 young people last year), advertising program, public relations effort, and public contact people, to sell the President and the accomplishments of the administration. We should be involved and aware of everything from the scheduled appearances of ACTION's recruiters to the format and content of its advertising."<sup>75</sup>

#### D. THE DEPARTMENTS

The variety and scope of evidence bearing on the functions of the Departments stretches all the way from fabricating a false historical record of the State Department in the Vietnam war to using the Department of Interior to punish a newscaster.

The State Department incident shows the extremes that were followed to achieve the political ends of the White House. In apparent anticipation that Senator Kennedy would be the opposing nominee for the Presidency, an attempt was made to falsify President Kennedy's role in the assassination of President Diem early in the Vietnam war.

The strategy used to implicate President Kennedy in Diem's death was to make up phony telegrams between the White House and South Vietnam during that critical period. One particular telegram indicated that Kennedy did not offer safe refuge to Diem, thereby insuring his assassination. To be able to do this, the State Department was contacted by Mr. Young of the White House Plumbers, resulting in Hunt's authorization to go over and review the appropriate cables between the United States and Saigon. Arrangements were made to leak the story to appropriate news persons.<sup>76</sup> When Hunt's safe was opened on June 20, 1972, the bulk of the papers, according to testimony, were classified cables from the State Department relating to the early years of the Vietnam war.<sup>77</sup>

The Department of Commerce was more directly used. The Secretary of Commerce attended meetings on campaign matters and campaign contributions while still in office.<sup>78</sup> In order to put out a story demonstrating that help provided to the Maine sugar beet industry by Senator Muskie was going to cost taxpayers \$13 million in defaults by that industry, the Department of Commerce was requested to provide the research material for that story. The correspondence flowed between the White House and Commerce, until

<sup>75</sup> Memo from Jeb Magruder to Ken Reitz, director of Young Voters for the President, Nov. 28, 1971.

<sup>76</sup> Testimony of Howard Hunt, executive sessions, July 25, 1973 and Sept. 10, 1973; also 9 *Hearings* 3672, 3733, 3772, 3780.

<sup>77</sup> Testimony of John Dean, 3 *Hearings* 937.

<sup>78</sup> While still Secretary of Commerce, Mr. Stans met in several instances on campaign-related matters in January and February 1972. Testimony of Maurice Stans, 2 *Hearings* 733-34.

the White House feared that their respective roles might be discovered.<sup>79</sup>

Because of a rather hostile comment former newscaster Chet Huntley once made regarding the President, there was an effort to make it as difficult as possible for him to get his Big Sky project in Montana moving. Apparently, Huntley needed assistance from the Interior Department, which was periodically contacted by the White House in this regard. For whatever reason, Huntley eventually agreed to back the President in the 1972 campaign and the attack was called off.<sup>80</sup>

The Department of Agriculture announced, on March 12, 1971, that price supports for milk would not be increased.<sup>81</sup> Board members of the Commodity Credit Corporation, which has responsibility for clearing such a decision, was unanimous in its recommendation not to increase supports.<sup>82</sup>

On March 25, 1971, the President reversed the decision of the Agriculture Department. There is much evidence of White House awareness and attention at that time to a \$2 million campaign pledge by the milk producers.

Whether or not the President's decision was the result of a dairy industry bribe, it is important to note that the legitimate functions of the Agriculture Department were circumvented and interfered with. In the reversal process, none of the Assistant Secretaries at Agriculture or their staffs were consulted. These were the professionals who had the expertise, who knew the reasons for the initial decision, who would have to enforce and live with the new decision by the President. Their opinion or expertise as to the President's reversal was never given; it was never solicited, even indirectly.<sup>83</sup>

Instead, at 10:30 a.m. on March 23, 1971, the President met with the milk producers, saying, "I know, too, that you are a group that are politically very conscious. . . . And you are willing to do something about it."<sup>84</sup> After a flurry of meetings between other administration officials and milk producers representatives, the President changed the Department of Agriculture's position on March 25, 1971. Thus, regard-

<sup>79</sup> See note 79, p. 1193.

<sup>80</sup> In a memo to Lawrence Higby, on July 16, 1970, Jeb Magruder expressed a need to get some "creative thinking" going on an attack on Huntley for his statements in Life. "Huntley will go out in a blaze of glory and we should attempt to pop his bubble." Exhibit 166.10 *Hearings* 4127.

In a memo to H. R. Haldeman, on Oct. 19, 1971, Lyn Nofziger notified Haldeman that "Huntley claims to be a Republican" and would support the Republican Senatorial candidate in Montana. John Whitaker, the White House liaison for the Department of Interior, then ordered the Department of Agriculture to quit "dragging its feet on Big Sky." 4 *Hearings* 1703.

<sup>81</sup> On March 12, Department of Agriculture announced Secretary Hardin's decision to maintain price support level at \$4.66. Since in 1970 the Secretary granted the largest increase at the beginning of a marketing year, which led to increase in production, Secretary Hardin, after a careful review, felt the retention of price support levels was in the long term best interests of dairy producers. News release, U.S. Department of Agriculture, Mar. 12, 1971.

<sup>82</sup> The Division of the Agricultural Stabilization and Conservation Service drafted its recommended decision in the form of a docket. The docket, based on recommendations of economists and superiors, recommended the \$4.66 figure and supported it with a four-page justification. The docket was then passed up the line before going to the CCC Board of Directors for approval and undergoes "pre-Board clearance" by others in USDA. On Mar. 3, 1971, the Board of Commodity Credit Corporation approved the docket. The recommended decision then went to the Secretary of Agriculture for final action.

<sup>83</sup> Assistant Secretary Palmby stated that he was unaware of any reconsideration of the March 12 decision. Palmby summarized his role by stating: "I was part of the March 12 announcement. I was not part of the later announcement." Interview with Palmby, p. 22.

Furthermore, Assistant Secretary Richard Lyng indicated that his first knowledge of the reversal in decision came 1 hour before the formal announcement.

<sup>84</sup> From, motion for Immediate Production of Records for Which Privilege Has Been Waived, at 2, *Nader v. Butz*, C.A. 148-72 (D.C.D.C., filed Jan. 11, 1974).

less of other issues involved, the acceptable processes of government were evaded for apparently personal and political interests.

A memo was presented which revealed a Cabinet session in which Mr. Fred Malek told the assembled Cabinet members of a plan to make the Departments more responsive to the political needs of the administration. It was this program that led to some of the more unique abuses of the Departments and agencies.

It was this program that led to evidence of *quid pro quos* for the contracts from the Department of Health, Education, and Welfare, the Department of Housing and Urban Development, the Department of Labor, the Department of Interior, the Office of Economic Opportunity, the Office of Minority Business Enterprise, the Federal Home Loan Mortgage Association, the General Services Administration, ACTION, and the Veterans' Administration.<sup>85</sup>

For example, a June 3, 1971, White House memo noted that the head of the Federal Home Loan Bank Board "has given a great deal of thought to, and designed, a sound economical plan to use Federal resources (projects, contracts, et cetera) for advantage in 1972."<sup>86</sup>

A June 23, 1971, White House memo recommended that "In addition to designating 'must' grants from pending applications there may be occasions in which political circumstances require a grant be generated for a locality."<sup>87</sup> This, of course, is in direct contravention of equal treatment under the laws that control Federal awards, which are supported by taxpayer funds and are to be distributed only on the basis of merit and need, by law.

By March 1972, this program, according to a memo to Mr. Halde-  
man citing success at the Commerce Department as an example, had "resulted in favorable grant decisions which otherwise would not have been made involving roughly \$1 million."<sup>88</sup> It was then recommended

<sup>85</sup> An "Administrative Confidential" memo from Mr. Marumoto. Mr. Malek's assistant in the Responsiveness Program, to Rob Davison, also of Mr. Malek's staff, July 19, 1972 (concerning a Washington, D.C., consulting firm under consideration for contracts from DOL and HUD); an "Administrative—Confidential" Weekly Report from Mr. Marumoto to Mr. Colson and Mr. Malek, Exhibit 262-28, 13 *Hearings* 5615. (DOL grant applicants who were "unfriendly toward the administration were being identified"); an "Administrative—Confidential" weekly report, from Mr. Marumoto to Mr. Colson and Mr. Malek, May 5, 1972, Exhibit 262-15, 13 *Hearings* 5572 (concerning a \$70,000 DOT grant to Joseph Reyes, National Hispanic Finance Committee, authorized by the Finance Committee for the Re-Election of the President; J. A. Reyes Associates also received a \$200,000 sole source non-competitive contract from OEO in July 1972); an "Administrative—Confidential" weekly report from Mr. Marumoto to Mr. Colson and Mr. Malek, May 19, 1972, Exhibit 262-17, 13 *Hearings* 5581 (a \$200,000 grant from the Office of Minority Business Enterprise); a "Confidential" memo from Harry Flemming of CRP to Mr. Malek, March 29, 1972 (concerning a Philadelphia Republican ward leader's complaint that his Democratic counterpart was being favored with Fannie Mae mortgage disclosure fees); an affidavit of John Clarke to the Senate Select Committee on Presidential Campaign Activities (indicating the process whereby architectural engineering contract awards by GSA were given political clearance by Mr. Clarke of the White House staff); a memo by Dan Todd, director of the CRP Older Americans voter bloc group, entitled "Proposed Communications Support Program for the Older Americans Division Committee for the Re-Election of the President," April 14, 1972 (indicating Federal agencies, such as ACTION, should prepare brochures on their senior citizen programs for frequent release during the 2 months prior to the election); "Final Report" of CRP Veterans Division, from CRP files ("The Campaign staff's effectiveness was significantly enhanced by its close liaison with the Veterans' Administration and coordination of campaign activity with the agency.")

<sup>86</sup> A "Confidential—Eyes Only" memo from Mr. Magruder to William Timmons of the White House staff, June 3, 1971 (indicating that Preston Martin, head of the FHLBB, was a "California-Nixon Republican" and "was a little put out that nobody has sought his political advice").

<sup>87</sup> A "Confidential" memo by William Horton of Fred Malek's staff entitled "Communicating Presidential Involvement in Federal Government Programs" (which appears to be a "first draft" of the Responsiveness Program).

<sup>88</sup> Apparently the efforts of Mr. Gifford of the White House staff had influenced favorable decisions on a dozen contracts worth \$1 million "which otherwise would not have been made"—"politically these actions have been most favorable." An extremely sensitive-confidential memo from Mr. Malek to Mr. Haldeman entitled Increasing the Responsiveness of the Executive Branch, Mar. 17, 1972.

that someone was needed to take "the lead in the program to politicize the Departments and Agencies . . . and closely monitor the grantsmanship project to insure maximum and unrelenting efforts."<sup>89</sup>

A December 23, 1971, memo to Mr. Haldeman noted that "this program, even if done discreetly, will represent a substantial risk. Trying to pressure 'nonpolitical' civil servants to partisanly support the President's reelection would become quickly publicized and undoubtedly backfire. Consequently, the strategy should be to work through the top and medium-level political appointees who exercise control over most of the Departmental decisions and actions."<sup>90</sup>

By June 1972, Mr. Malek reported he had "reviewed the program with each Cabinet officer (except Rogers) and with the heads of the key agencies," and "had them name a top official who would be the political contact for this program," as well as "educate loyal appointees . . . thus forming a political network in each Department."<sup>91</sup> Aside from abuse of the laws which authorize Federal grants, there are numerous indications that this program violated the Hatch Act.<sup>92</sup> That act specifically protects against politicizing the Government, and makes such efforts criminally illegal. In addition, much of this conduct may have involved a conspiracy to defraud the United States, under the criminal laws of title 18, United States Code, section 371,<sup>93</sup> as well as criminal violations of at least three sections of the campaign laws.<sup>94</sup>

So much for our independent Departments and Agencies.

The executive department diverted a substantial portion of its payroll, privileges, and power into nongovernmental activities. Mr. Frederick Malek, for example, held an official position at the Committee To Re-Elect the President as of June 1972, while on the White House payroll until September 1, 1972.<sup>95</sup> Mr. Gordon Strachan likewise was employed as a liaison to CRP, while being paid as an assistant to the White House Chief of Staff. Political advertising was supervised from the office that was supposed to be White House Chief of Staff.<sup>96</sup> Mr. McCord testified that he took part in Watergate partly because "the top legal officer in the White House" had participated in the decision to undertake the operation.<sup>97</sup>

<sup>89</sup> A confidential memo from Mr. Malek to Mr. Haldeman entitled *My Role in Support of Re-Election*, Jan. 28, 1972.

<sup>90</sup> Mr. Malek sought to minimize any direct links to the President, and therefore proposed "we stop calling it politicizing the executive branch and instead call it something like strengthening the Government's responsiveness." A confidential memo from Mr. Malek to Mr. Haldeman entitled "Redirecting the White House staff to support the President's Re-Election," Dec. 23, 1971.

<sup>91</sup> A confidential eyes only memo from Mr. Malek to Mr. Haldeman entitled *Responsiveness Program—Progress Report*, June 7, 1972.

<sup>92</sup> For example, an unsigned "Confidential" memo on CRP stationery addressed to Attorney General Mitchell, concerning "heavy exploitation of the Cabinet Committee on Opportunity for Spanish-Speaking Peoples," Exhibit 262-3, 13 *Hearings* 5534; a memo from Mr. Marumoto to Mr. Colson and Mr. Malek, Apr. 28, 1972, concerning reorganization of the Cabinet Committee's media section to support the campaign, Exhibit 262-14, *Id.* at 5569; Manual for the Surrogate Program Advance School, directed by Brad Porter for scheduled C Government employees subject to Hatch Act, *supra*.

<sup>93</sup> *Hammer Schmidt, et al v. United States*, 265 U.S. 182 (1923); also, *Dennis v. United States*, 384 U.S. 855, 861 (1966).

<sup>94</sup> Title 18, sections 595, 600, 602, 603, 607, 611, 1505; see also, *Use of the Incumbency—Responsiveness Program*, *supra*.

<sup>95</sup> Mr. Fred Malek according to Mr. Odle, became head of the citizens division of CRP between March and June 1972, exercising supervisory control, and had an office at CRP, even though he did not leave the White House until Sept. 1, 1972. Testimony of Robert Odle, 1 *Hearings* 31-32.

<sup>96</sup> Mr. Odle's testimony was that Mr. Strachan (Mr. Haldeman's assistant) participated rather actively in matters over at the Committee To Re-Elect, 1 *Hearings* 31.

<sup>97</sup> Testimony of James McCord, 1 *Hearings* 129.

The prerogatives granted the executive were misused, as has been detailed earlier. The effect is well summed up by Mr. McCord's testimony that he was told the President of the United States was aware of meetings offering him payoffs and clemency, that the results of the meetings would be conveyed to the President, and that at a future meeting there would likely be a personal message from the President himself. This supplemented threats that "the President's ability to govern is at stake," and "the Government may fall" if Mr. McCord did not follow the "game plan."<sup>98</sup> Mr. Caulfield confirmed that when he met with Mr. Dean that Dean wanted to transmit the message to McCord that the offer of Executive clemency was made with the proper authority, and that he made such representation to McCord.<sup>99</sup>

Not only were the department functions abused, but the Executive power of appointing department officials was likewise used. It was Herbert Porter who testified that he reminded the White House of the things he had done in the campaign when they dragged a bit in finding him a new job after the election.<sup>99a</sup> It was Jeb Magruder who was awarded with a high-ranking job at the Commerce Department for his misdeeds in the reelection campaign.<sup>1</sup>

These examples are minor compared to the general plans that were discussed to restaff the departments after the election to make them more subservient to the White House.<sup>2</sup>

As a final, rather tragic note, this is the White House that used its power over department appointments to nominate Mr. Gray to the FBI Directorship, decided not to support him any longer, and rather than tell him of that fact, decided to let him hang there, and twist slowly, slowly in the wind.<sup>3</sup>

### III. THE POLITICAL SYSTEM

Watergate challenged the very underpinnings of American politics and the American political condition. It happened in the natural clash and confusion of a free and open system of self-government; the same condition that despite its risks and vulnerability has given us many more moments of magnificence.

Nevertheless, whenever the Nation approaches a Presidential election year we have especially good reason to recall our founding fathers' warnings against the "danger of factions." History teaches us that no matter how much a President may insist otherwise, an incumbent begins to measure policy decisions by their effect on his reelection and wields power in pursuit of his most advantageous position.

The system is designed to absorb this, but without question there is a line that cannot be crossed if the process is not to be abused.

<sup>98</sup> On January 13, 1973, Mr. McCord met Mr. Caulfield and another message was conveyed as to clemency, along with statements that the President's ability to govern was at stake, another Teapot Dome scandal was possible, the Government may fall, and everybody else was on the track but McCord, who was not following the "game plan," and who should get "closer to your attorney" and keep silent. Testimony of James McCord, 1 *Hearings* 139-40.

<sup>99</sup> Testimony of John Caulfield, 1 *Hearings* 266.

<sup>99a</sup> See note 32, p. 1187.

<sup>1</sup> See note 31, p. 1187.

<sup>2</sup> A Dec. 23, 1971, confidential memorandum from Malek to Haldeman entitled redirecting the White House staff to Support the President's Reelection.

<sup>3</sup> In a telephone conversation with John Ehrlichman, Mr. Dean made reference to the fact that the President said he was "not sure that Gray's smart enough to run the Bureau." Exhibit 102, 7 *Hearings* 2950-51. And yet the President apparently had no qualms about nominating a man not "smart enough to run the Bureau" to be Permanent Director of the FBI.

The best way to observe how this happened to our political system in 1972 is to examine it in three component parts: the political party, the electoral process, and the democratic system.

### A. THE POLITICAL PARTY

Political parties in America have their own life and status. They were expressly excluded from our Constitution, yet they have persisted since the Nation's first generation.

The party has come to serve as a link between constituencies and men chosen to govern. They serve a valuable function, drawing competitive forces together to seek the reconciliation so essential to intense issues. When the parties do not function well, individual citizens feel a loss of control over politics and Government. They find themselves powerless to influence events. Voting seems futile; politics seems pointless. The political process crosses the line \* \* \* and things go badly for America.

By any measure, the process that led to Watergate emasculated important party functions. It began with the decision to take the party's leader, and his reelection, out of the Republican Party and into an independent entity, unresponsive to the checks and balances of party politics. From that point on, the Committee To Re-Elect the President was a political disaster.

There was a rationalization of CRP's existence, in some testimony, to the effect that it was needed for the primaries.<sup>4</sup> A number of Republican candidates entered the primaries, and it was considered unfair to use the Republican National Committee on behalf of the President. This theory ignored the President's massive popularity in the party at the time.

The fact is that CRP remained in operation throughout the campaign, long after it would have been proper for the Republican Party to take over.

Significantly, all available evidence indicates that the traditional party organizations at the national level, the Republican and Democratic National Committees, did not undertake illegal or improper activities in the 1972 campaign. After 16 months of investigation, the staff of this committee reported conclusively that there was no evidence of wrongdoing, directly or indirectly, by the Republican National Committee or its Chairman, Senator Robert Dole (R-Kans.) during the 1972 campaigns.

Evidence as to CRP's operation is in direct contrast.

By setting up an exclusive organization, concerned only with the President, the party was excluded from being properly aided by its titular head. The President was well-financed, and he won in a landslide. The Republican candidates for Congress and State offices did not have similar success in financing and campaigning against their Democratic opponents.

A good example of the tactics that hurt the party was the list of 100 Democratic Senators and Congressmen, "primarily from the

<sup>4</sup> Mr. Odle justified the need for CRP because the President was but a candidate for nomination prior to the Convention. Though, according to Odle, there was little doubt the President would triumph, there was a distinct possibility of a challenge from Congressman Ashbrook and Congressman McCloskey. Odle felt it was not proper for the National Committee to work for President Nixon, with two challengers anticipated. 1 *Hearings* 23.

South, who had supported the President on the crucial votes on the Vietnam war," who would "not receive very strong opposition" from the White House.<sup>5</sup> Clearly this would not have been possible if the party had been involved in the President's campaign.

Not only did the White House undermine the Republican Party by supporting Democratic candidates, it likewise undermined the party from within, by attacking Republican candidates. A memo from Mr. Haldeman in October 1969, outlined a letterwriting campaign to silence Republican Senators Percy, Goodell, and Mathias.<sup>6</sup> It consisted of "sending letters and telegrams, and making telephone calls to the Senators, blasting them . . ."<sup>7</sup>

A few days later it was reported to Haldeman that local groups in Illinois had begun sending critical telegrams and letters to Senator Percy.<sup>8</sup> A handwritten note by Mr. Haldeman disclosed "this was an order . . . I was told it was being carried out and so informed the President.<sup>9</sup> Incredible as it may seem the party was writing letters to itself, leaders of the Republican Party were being attacked by the head of their own party . . . in disguise.

An incident of serious significance was the suggestion by Mr. Patrick Buchanan that the Florida Republican State Chairman and the U.S. Attorney General attempt to use a provision in Florida law to keep a Republican challenger off the primary ballot, not because of legal considerations but for political advantage.<sup>10</sup> Earlier, that same challenger had been subjected to a bogus contribution to his New Hampshire campaign, in the name of the Young Socialist Alliance, staged by Mr. Colson, and leaked to the press to discredit his candidacy.<sup>11</sup> Again, a fellow Republican.

Negative politics were even taught to the young.

Mr. Ken Rietz organized the Young Voters for the President as part of CRP and designed projects for them such as the "McGovern-Shriver Confrontation" project.<sup>12</sup> This project used the Young Voters to confront democratic candidates, to generate adverse press, and "upset the candidate."<sup>13</sup> The result was that by September 1972, they had "learned the McGovern organization and/or the Secret Service has reacted to our activities . . . the street walk was canceled and McGovern spoke in an area that was barricaded off."<sup>14</sup>

The Committee To Re-Elect the President violated the principles of good politics, beginning with its structure and staffing.

The separation between partisan politics and government was violated by the participation of White House staff, as well as department and agency officials, in the campaign operation of CRP. Testimony as to the structure was to the effect that "people who were at the White House had influence over the committee, they gave it direction,

<sup>5</sup> Testimony of Gordon Strachan, 6 *Hearings* 2483-84.

<sup>6</sup> Memo from Jeb Magruder to H. R. Haldeman, Oct. 14, 1969.

<sup>7</sup> Memo from H. R. Haldeman to Jeb Magruder, Oct. 11, 1969.

<sup>8</sup> Memo from Jeb Magruder to H. R. Haldeman, Oct. 14, 1969.

<sup>9</sup> Memo from Jeb Magruder to H. R. Haldeman, Oct. 14, 1969 (handwritten note on the face thereof).

<sup>10</sup> Note 75, p. 1183.

<sup>11</sup> Herbert Porter called Roger Stone and suggested that Stone travel to New Hampshire and contribute money to McCloskey's campaign under the name of an extremist group. Staff Interview with Roger Stone, pp. 2-3.

<sup>12</sup> Memo from Edward Failor to Jeb Magruder, Sept. 23, 1972.

<sup>13</sup> In a Sept. 22, 1972, progress report, Ken Rietz, director of Young Voters for the President, cited daily orchestrated demonstrations using YVP personnel to confront candidates McGovern and Shriver, in an attempt to generate adverse press coverage. Memo from Ken Rietz to Jeb Magruder, Sept. 22, 1972.

<sup>14</sup> Memo from Edward Failor to Jeb Magruder, Sept. 23, 1972.

they assisted it," and that the campaign director "came from the Justice Department."<sup>15</sup>

The role of the assistant to the White House Chief of Staff "was to try to find out all of the things that were going on at the committee and make Mr. Haldeman aware of them."<sup>16</sup> Mr. Fred Malek, according to the individual in charge of personnel at CRP, became head of the Citizens Division of CRP between March and June 1972, exercising supervisory control, and had an office at CRP, even though he did not leave the White House staff or payroll until September 1, 1972.<sup>17</sup>

Mr. Mitchell at the Justice Department and Mr. Haldeman at the White House "jointly made decisions in advertising."<sup>18</sup> In citing instances of so-called blame-taking, one witness cited an example where Mr. Colson took the blame for ads of questionable political ethics, whereas Mr. Haldeman was actually responsible.<sup>19</sup>

Campaign recommendations from CRP were sent to the Attorney General for his decision as early as July 3, 1971. That particular campaign memo was written by a staff member in Mr. Malek's White House office, with the assistance of an individual in the Office of Management and Budget and an individual in Mr. Harry Dent's White House office.<sup>20</sup> Mr. Mitchell himself testified that he "had frequent meetings with individuals (from CRP) dealing with matters of policy" and staffing of CRP while he was still Attorney General.<sup>21</sup>

The hiring of personnel for the committee was "cleared by Mr. Magruder (CRP), Mr. Mitchell (Justice Department), and Mr. Strachan, who would be looking out for Mr. Haldeman's (White House) interest in the clearance process."<sup>22</sup>

The assistant to Mr. Haldeman was even well briefed on the Liddy plan long before the break-in, and in fact was called on June 17, 1972, to alert him to the pending break-in.<sup>23</sup>

The temptation and opportunity to abuse executive power thus existed, and the fact that such abuses took place has been demonstrated earlier in this report. For example, the use of Government agencies to seek politically embarrassing information on individuals who were thought to be enemies of the White House, which was testified to

<sup>15</sup> Testimony of Robert Odle, 1 *Hearings* 23.

<sup>16</sup> *Id.*, at 31.

<sup>17</sup> *Id.*, at 23, 31-32.

<sup>18</sup> With respect to advertising, Mr. Odle stated that "Mr. Haldeman had an interest in advertising without any question," and Mr. Mitchell, or Mr. MacGregor "and Mr. Haldeman jointly made decisions in advertising." 1 *Hearings* 35.

<sup>19</sup> Dean testified that Colson took the blame for ads of questionable political ethics which had been placed by a Mr. Shipley, whereas Mr. Haldeman was actually responsible. 4 *Hearings* 1490.

<sup>20</sup> Memo on: Grantsmanship, dated July 3, 1971, from Magruder (CRP). It states: "Enclosed is a copy of a proposal to insure that the President and his congressional supporters get proper credit for Federal Government programs. This proposal was written by Bill Horton in Fred Malek's office with the assistance of Bill Gifford, OMB, and Peter Millsbaugh in Harry Dent's office. If implemented this should be an effective method of insuring that political considerations are taken into account." Odle testified that these types of memos were sent to the Attorney General from May 1, 1971, onward. Exhibit 1, 1 *Hearings* 449.

<sup>21</sup> Mitchell testified that he "had frequent meetings with individuals (from CRP) dealing with matters of policy" and staffing of CRP while he was still Attorney General, even though in a colloquy with Senator Kennedy during the Kleindienst confirmation hearings (which was entered into the record) Mitchell had testified that at that time he did not have any re-election campaign responsibilities. Exhibits 74 and 75 consist of a number of documents wherein Mitchell was "exercising his responsibility as director of the campaign" in June 1971, and January 1972, while still Attorney General. 4 *Hearings* 1653-55.

<sup>22</sup> Testimony of Robert Odle, 1 *Hearings* 72.

<sup>23</sup> In his regular "political matters" memo to H. R. Haldeman, Strachan wrote: "Magruder reports that 1701 now has a sophisticated political intelligence gathering system with a budget of 300. A sample of the type of information they are developing is attached at tab 'H'." Testimony of Gordon Strachan, 6 *Hearings* 2441.



repeatedly, was certainly facilitated by the presence of White House and agency staff within a nonparty campaign committee. These tactics extended beyond the departments and agencies. Mr. McCord testified to phone calls and personal contacts to the effect that there would be executive clemency, financial support for the families, and rehabilitation after prison.<sup>24</sup> This was possible only through the facilities of the Presidency; little if any of it could have been offered by a political party.

A second aspect of staffing that caused problems and that could have been avoided by using the Republican Party, was the use of personnel that had little or no experience in elective politics. The danger with such a staff can be illustrated in the intelligence-gathering area. Candidates and campaign organizations have collected intelligence for generations. In the past, however, there has been something akin to an unwritten code as to the methods and content of information sought.

It is interesting to contrast Mr. Ehrlichman's description of discreet investigations, as intended to develop questionable facets of the personal lives of those being investigated, checking into domestic problems, drinking habits, personal social activities, and sexual habits.<sup>25</sup>

Somehow Mr. Ehrlichman tried to make a connection between the type of undercover prying into private lives of Ulasewicz and his "own knowledge" of Members of Congress who "totter onto the floor in a condition \* \* \* of at least partial inebriation."<sup>26</sup>

Not only did Ulasewicz not investigate the behavior of officials while performing their public responsibilities, but Mr. Ehrlichman offered no evidence to substantiate his "own knowledge."

When Mr. Ehrlichman then testified that it was proper to have ad hoc investigators going into sexual habits, drinking habits, domestic problems, and personal social activities and then provide that information to the electorate, this Senator responded, "You definitely have two different concepts of politics in this country meeting head on."<sup>27</sup>

Significantly, the American people passed judgment on this issue shortly thereafter. A Harris poll exactly 2 months later reported: "By 83 to 8 percent, the public is massively critical about the hiring of private detectives by the White House to spy on the sex life, drinking habits, and family problems of political opponents."<sup>28</sup>

Whether caused by a lack of experience or by a lack of proper leadership, the staff of CRP had a tragic history. One employee recalled that "when you find that a person you trust and respect is in jail for doing something and that man worked for you, it is quite a serious thing."<sup>29</sup> It was summed up by Mr. Robert Odle, who testified that during his association with the committee he came in contact with more than 400 of its national staff, and "it now appears tragically that some of those people have acted unethically." Indeed at the time he testified on May 17, 1973, the opening day of hearings, two former members of the staff had been convicted of crimes.<sup>30</sup> To date, in mid-1974, seven

<sup>24</sup> Testimony of James McCord, 1 *Hearings* 131.

<sup>25</sup> Ehrlichman considered private investigators going into sexual habits, drinking habits, domestic problems and personal social activities are a proper subject for investigation in political campaigns. 7 *Hearings* 2774-75.

<sup>26</sup> Testimony of John Ehrlichman, 7 *Hearings* 2777.

<sup>27</sup> *Id.*, at 2779.

<sup>28</sup> Washington Post, Sept. 27, 1973.

<sup>29</sup> Testimony of Robert Odle, in reference to the arrest of Mr. McCord, 1 *Hearings* 29.

<sup>30</sup> James McCord and Gordon Liddy. This refers only to employees of CRP.

former members have been indicted for or convicted of criminal conduct.<sup>31</sup> This is not what politics should be or has been about.

The second area in which CRP took over normal party functions was campaign financing.

Money was not properly raised.

Instead, it was allegedly raised by Mr. Rebozo, a friend of the President, who had no official campaign responsibility. Money was raised by the President's personal attorney. During the 1970 campaigns, he was directed on three separate occasions by the White House staff to disburse funds from a trust fund in his control at the Chase Manhattan Bank in New York. He successively took \$100,000, \$200,000, and \$100,000 from a safe deposit box, on which one of the signatories was a family relation of the White House Chief of Staff.<sup>32</sup>

The beginnings of the administration's relationship with the Milk Producers Association, according to their testimony was a \$100,000 contribution to the President's attorney to gain access to the White House, and to lay the groundwork for favorable treatment in certain specified ways for the milk producers and the dairy industry.<sup>33</sup> Messrs. Haldeman, Ehrlichman, and Colson, all of whom were senior White House advisors, held meetings to discuss fund-raising, including the \$2 million pledge from the milk producers.

Money was raised by a Secretary of Commerce and a Secretary of the Treasury. All of which would have been unnecessary if financing had been left to the professionals in the Republican Party.

The handling of money was equally bad. Large amounts of cash were transferred and used. Secret funds were set up. Financial records were destroyed on a number of occasions.<sup>34</sup> People with no campaign responsibility were receiving and distributing money. Illegal corporate contributions were given to CRP and accepted.<sup>35</sup>

Even though CRP represented itself as a Presidential reelection organization, it gave \$25,000 to a congressional campaign in Maryland.<sup>36</sup> It gave \$50,000 to a Vice Presidential donor in Maryland to make it appear that a Vice Presidential fund-raising event was more successful than it was, in what turned out to be an illegal transaction.<sup>37</sup> Mr. McCord's salary from the committee was continued from July 1972, through January 1973.<sup>38</sup> One witness understood that in Governor Wallace's gubernatorial campaign in Alabama, Mr. Kalmbach provided Wallace's opponent with between \$200,000 and \$400,000.<sup>39</sup>

The intelligence activities of CRP were the greatest distortion of the political system undertaken by that committee. The Republican Party had an information-gathering function of a research nature, but

<sup>31</sup> James McCord, Gordon Liddy, Jeb Magruder, John Mitchell, Herbert Porter, Robert Mardian and Fred LaRue. This again refers only to employees of CRP.

<sup>32</sup> Mr. Kalmbach delivered these funds, left over from the 1968 campaign, to a man he did not know, but could identify by means of clandestine signals at the Sherry-Netherlands Hotel in New York. Testimony of Herbert Kalmbach, 5 *Hearings* 2142-44.

<sup>33</sup> Mr. Kalmbach understood the \$100,000 contribution from AMPI in 1969 to be tied to access to the President and administration approval of new price supports for dairy farmers. Affidavit of Herbert Kalmbach, to the Senate Select Committee on Presidential Campaign Activities, *supra*.

<sup>34</sup> Testimony of Herbert Kalmbach, 5 *Hearings* 2111; see also testimony of Hugh Sloan, 2 *Hearings* 572.

<sup>35</sup> See testimony of eight corporate executives convicted of illegal corporate contributions Nov. 13-15, 1973, 13 *Hearings*.

<sup>36</sup> Testimony of Hugh Sloan, 2 *Hearings* 541.

<sup>37</sup> Testimony of Maurice Stans, 2 *Hearings* 756.

<sup>38</sup> Mr. McCord testified that he received \$25,000 for legal fees and a continuation of his \$3,000 monthly salary (through January 1973) from the Committee To Re-Elect the President via Mrs. Hunt, 1 *Hearings* 130.

<sup>39</sup> Testimony of John Dean, 4 *Hearings* 1536.

it was considered inadequate by the White House which had become used to the sophisticated techniques of law enforcement, national security, and Government intelligence. Unfortunately, by combining systems, they weren't able to draw the distinction between law enforcement and politics.

As a result, CRP found itself collecting and using secret intelligence from the FBI, and the Internal Security Division of Justice.<sup>40</sup> They developed a Security Unit that burglarized, photographed, and wiretapped, that staked out Senators' and Congressmen's offices, and cased the Democratic headquarters.<sup>41</sup> They planned illegal acts against the Democratic Party chairman, at his residence and subsequently at his office. Similar plans were made for Senator McGovern's headquarters in Washington and at the Democratic Convention.<sup>42</sup> Electronic surveillance of Senator Muskie's campaign office was discussed as a future target, according to McCord, but instead an office in an adjacent building was leased under the false name of John B. Hayes.<sup>43</sup>

Transcripts of illegally wiretapped phone calls were available to the Committee To Re-Elect.<sup>44</sup> The person transcribing the wiretaps was paid by payroll check from the committee.<sup>45</sup>

A secretary on the CRP payroll typed up illegal wiretap transcripts, assisted Mr. Liddy in preparing a pass to enter McGovern headquarters, and eventually took part in the shredding of illegal intelligence documents.<sup>46</sup>

CRP built a capability to intercept and photograph memos in the Muskie campaign, and infiltrated not only Muskie's campaign but McGovern's suite at the Democratic Convention and Senator Humphrey's campaign (with an infiltrator known as Sedan Chair).<sup>47</sup> CRP became a group that had a .38 snub-nosed, Smith and Wesson revolver in its files that it handed out to one of its spies,<sup>48</sup> that was purchasing spy equipment from bugging equipment to microfilm machines for viewing its stolen documents, that was falsifying credentials, and shredding incriminating documents. Expensive charts were purchased, to display plans for bugging, mugging, burglaries, and the like to the Attorney General. After that briefing, Liddy reported that Mr. Dean had asked him to destroy them, but because the charts were so expensive, Liddy decided not to. It found itself with an arrangement for two attorneys, Mr. Caddy and Mr. Rafferty, to appear at the second precinct following the Watergate arrests, when the participants did not return home from their night's work.

At one point the committee was even instructed by the White House to hire a shaggy person to sit in front of the White House wearing a

<sup>40</sup> Testimony of James McCord, 1 *Hearings* 178-181.

<sup>41</sup> This refers to the White House Plumbers (3 *Hearings* 919-924), the surveillance of Alfred Baldwin (1 *Hearings* 396, 397) and the aborted attempt of the Liddy-McCord team to break-in to McGovern headquarters, as well as the successful Watergate break-ins (1 *Hearings* 125-247).

<sup>42</sup> These were the initial targets specified by Mr. Liddy to Mr. McCord. Testimony of James McCord, 1 *Hearings* 128.

<sup>43</sup> Testimony of James McCord, 1 *Hearings* 153.

<sup>44</sup> Testimony of Jeb Magruder, 2 *Hearings* 827.

<sup>45</sup> Alfred C. Baldwin operated as an employee of the Committee To Re-Elect the President, was paid by payroll check from the committee and was given an identification pin by the committee. Testimony of Alfred Baldwin, 1 *Hearings* 393.

<sup>46</sup> Testimony of Sally Harmony, 1 *Hearings* 463.

<sup>47</sup> Interview with Herbert Porter, Aug. 20, 1973. Interview Roger Greaves, Aug. 21, 1973.

<sup>48</sup> Mr. Baldwin was given a .38 snub-nosed revolver, Smith and Wesson, from the first or second drawer of a file cabinet at the Committee To Re-Elect the President. Testimony of Alfred Baldwin, 1 *Hearings* 392.

McGovern button.<sup>49</sup> This could only be matched by the hiring of counterdemonstrators for the funeral of J. Edgar Hoover,<sup>50</sup> hardly a political event.

The Committee To Re-Elect the President not only undermined the national Republican Party. The proper functioning of the Democratic Party was likewise subverted. The intelligence functions previously described were designed, among other things, to influence the choice of the Democratic nominee for President. As part of that tactic, the illegal or unethical capabilities that were set up were consistently focused on the strongest contender. The early attack was against Senator Kennedy. It shifted to Senator Muskie. As Muskie's strength diminished, instructions came from the White House to shift the attack to Senator McGovern. This included not just intelligence, but the so-called dirty tricks operation as well.

The attempts to undermine the Democratic Party went beyond the candidates. A memo entitled "Counter Actions" and dated September 11, 1972, noted that depositions could be taken in a civil suit against Larry O'Brien, covering "everything from Larry O'Brien's sources of income while Chairman of the DNC to certain sexual activities of employees of the DNC. They should cause considerable problems for those being deposed."<sup>51</sup>

Mr. Dean recalled Mr. Haldeman telling him that he hoped O'Brien would be Senator McGovern's campaign manager, "because we have some really good information on him. (Dean) believed he was referring to tax information at that time."<sup>52</sup>

## B. THE ELECTORAL PROCESS

A whole range of activities during the 1972 campaign, including so-called dirty tricks, were aimed at the voter. To the extent that improper or illegal methods were used to influence votes, they interfered with the electoral process.

The task of influencing the final vote for President had its beginnings early in the campaign process. It was a complex operation, not simply questionable tactics to get people to vote for Mr. Nixon. Rather, its thrust was negative, to get people to vote against strong contenders.

To take away votes from Senator Muskie in New Hampshire, Mr. Colson (stating that he had the President's approval) drafted a letter urging a write-in campaign for Senator Kennedy. Between 150,000 and 180,000 of the letters were sent out, a press conference was staged in support of the bogus campaign, along with appropriate advertising. All at a cost of some \$10,000, paid for by contributors to a Republican President, not a Democratic write-in candidate.<sup>53</sup>

The President's campaign funds were also given to Democratic contenders Eugene McCarthy and Shirley Chisholm.<sup>54</sup>

<sup>49</sup> Robert Reisner testified that Charles Colson instructed Magruder to hire a shaggy person to sit in front of the White House with a McGovern button. 2 *Hearings* 512.

<sup>50</sup> Robert Reisner believes it was Charles Colson who initiated the hiring of counterdemonstrators at the Hoover funeral. *Ibid.*

Hunt testified to enlisting the aid of Mr. Barker and associates during Mr. Hoover's funeral. Hunt was informed by Liddy that in conjunction with demonstrations, an effort would be made to desecrate the catafalque of Hoover in the Capitol. 9 *Hearings* 3712.

<sup>51</sup> 4 *Hearings* 1471.

<sup>52</sup> *Ibid.*

<sup>53</sup> Interviews with Jeb Magruder, Aug. 18, 1973, p. 3, and Oct. 1, 1973, p. 11.

<sup>54</sup> Interview with Gordon Strachan, Aug. 13, 1973, p. 8; interview with John Mitchell, June 27, 1973.

Along this line, there was a project to finance the candidate for the Democratic nomination for Governor who was opposing former Governor George Wallace. This was to be financed by surplus funds from the 1968 campaign, which Mr. Haldeman testified that he "requested or approved \* \* \* for funding support to a candidate for Governor in Alabama."<sup>55</sup>

Mr. Haldeman also approved "the funding of Donald Segretti."<sup>56</sup>

The story of Segretti and his henchmen illustrates more dramatically than anything else the efforts of the White House in the 1972 election to subject the voting privilege of American citizens to gutter politics.

Whether Segretti had any significant or measurable effect is not the question. It was an example, straight from the White House, of the worst in American politics.

It included informers planted in opponents' campaigns, stinkbombs unleashed against voters attending a campaign picnic, against volunteers in a telephone bank operation, and inside a campaign headquarters, a letter on a replica of Muskie stationery accusing Senators Jackson and Humphrey of sexual improprieties in the most vile language, flyers inviting voters to a nonexistent open house at Muskie headquarters, a flyer advertising a free all-you-can-eat lunch with drinks at Humphrey headquarters, a small plane circling the Democratic Convention advertising "Pot, Peace, Promiscuity, Vote McGovern," adverse press that forced cancellation of a Muskie fundraising dinner, printed cards with "If you like Hitler, you'll love Wallace—Vote for Muskie," stinkbombs thrown into a campaign headquarters, a forged letter on McCarthy stationery urging McCarthy delegates to switch to Humphrey, a letter on Yorty stationery blaming the McCarthy letters on Yorty, hired hecklers, pickets, and informers to disrupt, infiltrate, and spy on Senators Humphrey, Muskie, and Jackson, a false press release with the information that Muskie was using Government-owned typewriters and Federal employees not on leave of absence, a series of false anti-Muskie advertisements in the University of Miami campus newspaper, the local Cuban newspaper, and on the local Cuban radio station insulting the Cuban people, a false press release on Muskie stationery with a vague stand on aid to Israel which did not go over well in Miami Beach, a flyer claiming Muskie favored busing while sending his children to private schools, rats and birds released at a Muskie press conference, a naked woman to run in front of Muskie headquarters yelling "I love Muskie," a flyer falsely advertising the appearance of Lorne Greene and Mrs. Martin Luther King at a Humphrey rally, hundreds of dollars' worth of flowers, chicken, and pizzas delivered to Muskie headquarters, a set of invitations to Black Panthers, the Gay Liberation Front, the Hare Krishna movement and African diplomats for a Muskie fundraising dinner, a chauffeur for the Muskie campaign, code-named "Ruby 1," who would turn over documents being delivered so they could be surreptitiously photographed, and eventually shown to Mr. Mitchell, a rented office near Muskie's headquarters to facilitate copying of documents, a group of infiltrators in Muskie headquarters in Milwaukee, Humphrey headquarters in Philadelphia, McGovern headquarters in Los

<sup>55</sup> Testimony of John Dean, 4 *Hearings* 1536.

<sup>56</sup> Testimony of H. R. Haldeman, 7 *Hearings* 2876.

Angeles, Washington, and Miami, a ploy to get campaign workers to drink beer and skip work, and an operation to switch phone-bank call sheets so the same people would be called repeatedly or the wrong message would go to selected groups.<sup>57</sup> This is not to mention similar operations by persons known as "Sedan Chair 1" and "Sedan Chair 2;"<sup>58</sup> and "Ruby II."<sup>59</sup>

It was nothing short of a massive operation to deprive the American voter of information about Democratic candidates for President. It was significant not so much as an attack on politicians, but as an attack on voters and their opportunity to cast a fully informed vote.

Dirty tricks were not the only means used to influence the electoral process improperly.

Misleading the voter by official conduct and statements was equally in evidence. This kept critical information hidden from voters, when there was a legal obligation to disclose it, thereby preventing a proper judgment of the incumbent administration.

The Watergate break-in was called a "third rate burglary at a time when the White House knew better, based on its briefings and discussions, including a discussion of executive clemency with the President in July 1972."<sup>60</sup>

Mr. Mardian testified that he even complained to Mr. Clark MacGregor, who had succeeded Mr. Mitchell as campaign manager, that statements being made regarding noninvolvement of campaign personnel were untrue, and that he unsuccessfully attempted to brief MacGregor about the tremendous exposure of certain people in the campaign.<sup>61</sup>

On August 29, 1972, the President assured the Nation that an investigation by John Dean had cleared the White House of any involvement. This statement was made in spite of the fact that the President had received no report from Dean, and never, ever talked with Dean about Watergate.<sup>62</sup>

In mid-September 1972, the President discussed possibly unethical out-of-court contacts that had apparently taken place with the judge in one of the Watergate lawsuits, as part of a strategy to keep the process of justice from operating.<sup>63</sup> Delay or obstruction of this process again insured that voters would not have the legal record before them in November.

In mid-October 1972, high-level staff meetings at the White House were convened to decide how to handle news reports about Segretti. Even though those participating knew or had access to the full Segretti story, the decision was made to issue tough denials, and what Mr. Richard Moore described as "weasel words."<sup>64</sup> The story was basically correct, yet it was denounced as "hearsay, innuendo, and character

<sup>57</sup> This list was compiled from the testimony of Donald Segretti, 10 *Hearings* 3980-4054; Martin Kelly, 11 *Hearings* 4376-4402; Robert Benz, 11 *Hearings* 4403-34; and John Buckley, 11 *Hearings* 4435-77.

<sup>58</sup> See interview with Herbert Porter, August 20, 1973; interview with Roger Greaves (Sedan Chair 1), August 21, 1973; testimony of Michael McMinoway, 11 *Hearings* 4478-4535.

<sup>59</sup> Testimony of Marc Lackritz, 11 *Hearings* 4636 (describing the activities of Thomas Gregory, a student hired by Howard Hunt).

<sup>60</sup> Presidential statement, Aug. 15, 1973, p. 3; testimony of John Ehrlichman, 7 *Hearings* 2848-49.

<sup>61</sup> Testimony of Robert Mardian, 6 *Hearings* 2430.

<sup>62</sup> Testimony of John Dean, 3 *Hearings* 955.

<sup>63</sup> *Id.*, at 958; Transcripts of Presidential Conversations, September 15, 1972, p. 60.

<sup>64</sup> Testimony of Richard Moore, 5 *Hearings* 2038.

assassination." No effort was made to tell the truth. The voters were kept in the dark.

Perhaps this tactic was best summed in testimony by Mr. John Mitchell. He was interviewed by the FBI on July 5, 1972, and stated that all he knew was what he read in the newspapers, despite testimony that he had been extensively briefed about Watergate by Mar-dian and LaRue. His explanation: "at that particular time, we weren't volunteering any information."<sup>65</sup> His reason: "the reelection of the President, this particular President, was uppermost in my mind without question."<sup>66</sup> One man was thereby elevated above the fundamental principles of this Nation.

#### IV. TRANSITION (FROM FACT TO OPINION)

At the conclusion of the fact-gathering phase of the committee's mandate, I met with Legislative Assistant A. Searle Field and Assistant Minority Counsel H. William Shure to discuss what shape our report on Watergate should take. We settled upon the following "woulds" and "wouldn'ts":

1. We would emphasize the known in order to impress upon the reader the importance of its implications rather than explode new facts of scandal. We were convinced White House strategy was (is) geared to numbing America past concern by inundating America with one White House horror after another.

2. We would report within a framework of principles and institutions rather than people.

3. We would opine and editorialize but separately from the factual presentation.

4. We would recommend remedial legislation.

We wouldn't try and resolve conflicting testimony.

We wouldn't make judgments on individual guilt or innocence.

We wouldn't cite "shaky" material as proof.

If what you've read up to now in these pages is not new, neither is it susceptible to argument.

The indisputable ugliness of Watergate is of such scope as to categorize it as a sheer insanity; either for those who participated in it or have since defended it.

I don't know, except as the courts have already passed judgment, who is guilty or who is innocent.

But I do know that to accept the White House version of your Constitution, your Government and your politics is to counterfeit America.

#### A. UNDERSTANDING WATERGATE

Alright, what to do with the raw data of Watergate? Unless positive understandings and actions emanate from this negative sequence, then it seems to me nobody really was caught breaking into Watergate.

The gut question this summer is what do Americans now know and what are they going to do about it? By way of dramatizing the need for a proper answer to that question, let me cite the following example. I recently received a critical letter which read: "Really, Senator, 'all is fair in love and war'."

<sup>65</sup> Testimony of John Mitchell, 5 *Hearings* 1926.

<sup>66</sup> *Id.*, at 1827.

American elections—war?

Members of another party—enemies?

Politics—fear?

Is that the lesson America is taking home from the Watergate? Because if such is the case, then a whole new era in American politics will have dawned and Gordon Liddy will be recognized not as peculiar but as a visionary. Also at such time we of the Select Committee would have failed. Though a year has gone by between the time of the Senate Watergate hearings and this Senator's Watergate conclusions, it is a matter of constitutional life and death that the American people make a connection between those two events.

What about the Constitution? Is it up to our times? Certainly it never before has obtained such visibility. But how about acceptance?

#### 1. THE CONSTITUTION

Later in this section I intend to editorialize on the abuses to our governmental and political institutions. However the pivotal struggle of Watergate is one between men who play for the moment and look upon the Constitution as a 4th of July interruption to their own charter and men who play for tomorrow and understand it to be the force that has given America success beyond America's natural abilities for success.

Never first in population, land mass or natural resources, why have we attained a national greatness and personal affluence beyond that achieved by any country or people?

Because we perjured? Because dissent was disloyalty? Because justice was political? Because our concern was developing rear? Because we burgled? Because we thought the worst of each other?

Or, because

All men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness . . . ."

Or, because

Congress shall make no law . . . abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Or, because

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated . . . .

Or, because

No person shall be deprived of life, liberty or property without due process of law . . . .

Or, because

In all criminal prosecutions the accused shall enjoy the right . . . to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor . . . .

Or, because

The President . . . shall take the following Oath: "I do solemnly swear that I will faithfully execute the office of President of the United States and will, to the best of my



ability, preserve, protect and defend the Constitution of the United States."

I catch none of the "everybody's doing it" or "transcripts" spirit in any of those words.

The Constitutional history of Watergate to this date has been that of a President and his ministers who de facto have tried to "yes—but" most sections of the Constitution.

I feel article V to be preferable to administration amending methods.

Several years ago many Americans were willing to silently tolerate illegal Government activity against militants, terrorists or subversives as an expeditious way to circumvent the precise processes of our justice system. Though quick, it also proved to be only a short step to using such illegal tactics against any dissenting American. The result was we almost lost America. Not to subversives, terrorists or extremists of the streets but to subversives, terrorists, and extremists of the White House.

That is why there can be no acquiescence, now, to a few "yes—buts" to the Constitution. To do so would be just as big a copout as those who espouse violence in the name of peace.

American constitutional democracy is not the tidiest, most orderly, most efficient, most expeditious, quietest political system on Earth. It is in fact raucous, off in a thousand directions of concern, involved with millions of individuals rather than a mass, revolutionary and querulous. But what some deem as flaws are precisely its genius. For those who have made it, it's a pain. For those who haven't, it rebuts predestination.

Our greatness will always be in direct proportion to our freedoms. Yes, that includes the freedom to be wrong.

Free spirits, not measured freedom, has been the promise of the Constitution. We can have peace in Vietnam, on campus and in the neighborhood without forfeiting that promise and no man or group of men deserve leadership if they would put the Nation to such a choice.

## 2. GOVERNMENT

The offices of government in this Nation are complex and awesomely powerful. Even if engaged on legal pursuits. It's not an exaggeration to state that a U.S. Senator needs every bit of his clout to move effectively within the bureaucratic maze. Insofar as the 99.9 percent of Americans who are not Presidents, Congressmen, or Senators, if anything goes wrong with either end of the governed-Government equation, the mismatch of the century ensues. And that's so even though the slipup is innocently legal. Fully 50 percent of a Senator's time and staff are devoted to resolving the innocently legal slipups between his constituents and their Government. And I'm sure those who speak up are no more than 5 percent of those being wronged.

What then if agencies and officers of the U.S. Government become involved, not in innocently legal mistakes, but purposefully illegal vengeance? In light of the facts already presented, the greatest danger of this section is for me not to overeditorialize the case so as to engender disbelief. Of those who read this report, 99 percent of them know Senators, Congressmen, successful lawyers and other powerful

persons. But America is not supposed to be about the powerful—rather the frail. And they're the ones who will eventually suffer the most if the White House record on using the Government agencies politically to bring about conformity is allowed to go unchallenged.

The "enemies list", revealed in the dialog I had with John Dean, has received much hoopla. But aside from the fact that today it has become a badge of honor, have you ever thought what it feels like to be an American and have the highest office in the land look upon you as an enemy? To be spied on, to be investigated, to be harassed, to be reviled by your own country? It may be a badge of honor when revealed but it's frighteningly disheartening while it's going on and no one believes that these things are happening in America.

Oh, yes, I've heard the excuses for the illegal use of the Federal law enforcement-intelligence community. National security, domestic security, terrorists, law and order, subversives, militants. But let me put the White House record in the proper factual context.

No administration within my lifetime has a worse record of convictions in relation to indictments than the Nixon administration. Why? Because it tried to achieve law and order by lawlessness. It was the courts that said no, not the Justice Department.

In the matter of the Special Compliance Division of the IRS and their keeping tabs on "militants, subversives, terrorists, ideological, and other organizations," it is fact that in all the IRS files that came into White House possession, there is not one militant, subversive, terrorist individual or organization. That is the lesson of a White House gone ape. Our lesson is that you can't protect the rights of anyone unless you protect the rights of everyone.

The differences between myself and this administration on Watergate are not philosophical, political, historical, personal or regional. They are constitutional, pure and simple. A better summation of our differences could not be found than the surreptitious entry language of the "1970 Spy/Huston/Sullivan Plan" and again in the words of the President on September 15, 1972:

Use of this technique is clearly illegal: it amounts to burglary. It is also highly risky and could result in great embarrassment if exposed. However, it is also the most fruitful tool and can produce the type of intelligence which cannot be obtained in any other fashion.

You can't have that and democracy.

I want the most comprehensive notes on all those who tried to do us in. They didn't have to do it. They are asking for it and they are going to get it. We have not used the power in this first four years as you know. We have not used the Bureau (FBI) and we have not used Justice. But things are going to change now. And they are either going to do it right or go.

You can't have that and democracy.

Remember what Pat Gray said?

I said early in the game that I thought that Watergate would tarnish everyone with whom it came in contact and I am no exception. *I had a responsibility not to permit myself*

*to be used, not to permit myself to be deceived* and I failed in that responsibility and I have never failed in anything that I have undertaken until this point in time. And it hurts.

The Congress and the American people, with more facts in hand than Pat Gray ever had, have an even greater responsibility not to be used or deceived in this matter of abuses to our governmental agencies and political processes.

Because most elected officials or citizens haven't had the FBI, IRS, CIA, MI, SS, Justice Department, Defense Department, Commerce Department, "Fat Jack" or Tony Ulasewicz on their tail does not mean the abuses of Watergate passed them by. It only means that if they don't speak out now, they've got no complaint later. A little less speculating Watergate and a little more speaking out is very much in order.

Admittedly to speak out is tough. Just as the Bill of Rights and democracy is tough.

But speaking out is a patriotism far better suited to 1974 than 1972's wearing of flag lapel pins by White House and CREP employees while they advocated burglary, wiretapping, committed perjury, politicized justice, impugned the patriotism of those who disagreed with them and threw due process in the shredder.

Americans of all generations have suffered and died at their best because they were uncompromising in the idealism they wished for their country. Who of this generation, then, wants to declare a lesser truth for America?

It is the answer we give to that question which matters. It will decide America.

### 3. POLITICS

In November 1962 I was elected to my first public office—State representative to the General Assembly in Hartford, Conn.

Now, some 12 years and eight elections later, I am rounding out my first term in the U.S. Senate—a boyhood dream come true.

Yes, it's time-consuming and rough on the family life. To that extent it's tough. But each dawn for 12 years has me looking forward to the day. Politics is a clean business with dedicated people. The terms "9 to 5" and "5-day week" are seldom heard. The winning politician is in the business of love and not hate. The average politician takes the cost of serving out of his pocket and not the public's taxes.

These things need saying to challenge the "end justifies the means" image, the "everybody's doing it" image that the White House knowingly and a few ignoramuses unwittingly would give politics.

We're replete with failings personally as I, my staff, and my family know all too well. But with the public trust given us by our constituencies—we'd no more see that in the mud than the American flag.

Can I prove the above? Sure. Look at your America as I've asked the people of Connecticut to look at their State.

The truth of American politics is in the schools of this country, not a wiretap; in the hospitals, not a burglary; in the housing projects, not a scurrilous letter; in the parks, not in hush money; in facilities for the retarded, not in spying; in people who volunteer in a thousand ways, not in dirty tricksters; in politicians who reach for the weak first, the strong second, not in hatchetmen. In short, dirt does not conceive so much tangible excellence as we have in our country.

The truth of America is not in the deeds of men and women at their worst but rather at their best. Government with its politicians and the people are not apart in a democracy. They are one.

And so it is we will not get any better ethics or more idealism in the Oval Office or on the Senate floor than we do in the voting booths.

Watergate was conceived in an ignorant apathy of the electorate and was executed in semiconscious apathy. Its greatest danger is that it will be forgotten in an apathy of total knowledge. That kind of voting booth acquittal means that American politics has officially joined the administration on the dark side of the manhole.

Thank you, no.

## B. PEOPLE AND POWER

Watergate is not the story of one powerful man. It is a story of people. Though my efforts have been directed toward the principles and institutions of this Nation, I am well aware that their existence or disappearance reflects human behavior.

It is no source of pride to me as an American that the coinage of responsibility has been in inverse measure to rank and power. I was taught early on, first by my dad and then by the U.S. Army, that rank has its privileges because rank has its responsibilities.

Yet in the case of this President, I've heard the word "privilege" used over and over again as a dodge of responsibility.

The word "stonewall" has been used to describe the President's defense. Believe me, it has been and continues to be a "human wall."

## C. REPUBLICANS

Obviously this has been rough duty in a Republican sense. However, from the outset I've operated on the basis that the best investigation was the best politics. I couldn't change the facts. I couldn't silence those who knew the facts. All I could do was to make sure that a Republican spoke the facts if not before, then simultaneously with a Democrat.

On page 103 of the "Transcripts," President Richard Nixon is talking to John Dean:

I don't know what we can do. The people who are most disturbed about this (unintelligible) are the (adjective deleted) Republicans. A lot of these Congressmen, financial contributors, et cetera, are highly moral. The Democrats are just sort of saying, "(expletive deleted) fun and games."

Richard Nixon understood the strong base of integrity that is a Republican heritage. Because he rejected it then is no reason for any Republican to do so now.

Because the Republican National Committee and its chairman, Senator Robert Dole, of Kansas, were in the traditional Republican mold of decency and honesty is exactly the why of a Committee To Re-Elect the President. At an executive session of the Select Committee held on Wednesday, June 19, 1974, I inquired of the staff and the committee whether after 1 year of investigation there was evidence of wrongdoing by either the RNC or Senator Dole. The answer was a clearcut "no" in both instances. Republicans who now state that "every-

body does it" dishonor the men and women of their own official party organization and Bob Dole who didn't do it and wouldn't have done it. One last comment.

The record establishes that:

1. The White House took a dive on the congressional races of 1972 insofar as many Republican candidates were concerned.<sup>67</sup>
2. Democratic candidates were actively assisted in some instances.<sup>68</sup>
3. The White House expended considerable resources and energies zapping Republican Senators and Congressmen.<sup>69</sup>
4. The Justice Department was consulted as to how to keep a Republican off the Florida primary ballot.<sup>70</sup>

Along with a will to pursue the truth, I would hope the will to win for the Republican Party is slightly stronger and fairer in its next titular head.

#### D. TOMORROW

No, this won't be the Watergate to end all Watergates.

Other men will tape the doors of America in other times.

Whether they succeed will be a matter of spirit.

For then as now, the state of our spirit will determine the state of this Union.

#### RECOMMENDATIONS

The necessary legislative and/or constitutional steps should be initiated to:

1. Make all forms of domestic electronic surveillance, including wiretapping, illegal.
2. Have the office of Attorney General of the United States be an elected office.
3. Make all nominations for Federal elective office by direct primary, with unaffiliated voters free to participate in the party primary of their choice.
4. Establish a joint congressional committee, with complete investigative powers and rotating membership, to monitor domestic intelligence-gathering and law enforcement activities throughout the executive branch, and be able, under appropriate safeguards, to obtain and provide access to relevant materials requested by any Member of Congress. Similar oversight functions now held by congressional committees should be transferred to the joint committee.
5. Grant the Supreme Court original jurisdiction over disputes as to any privilege asserted by the President with respect to the Congress or Federal law enforcement agencies, thereby making the Supreme Court the first and final arbiter of the issue.

<sup>67</sup> Gordon Strachan testified that there was a list of approximately 100 Democratic Congressmen, primarily from the South, who were not to receive active opposition from the White House, 6 *Hearings* 2483.

<sup>68</sup> Carmichael-Eastland campaign in Mississippi for the U.S. Senate, 1972.

<sup>69</sup> As part of a White House campaign against Senators Percy, Mathias, and Goodell, a confidential memo by Mr. Haldeman on October 11, 1969, ordered a program of: "Sending letters and telegrams, and making telephone calls to the Senators, blasting them . . ."

<sup>70</sup> Memo to Attorney General Mitchell from Jeb Magruder, August 11, 1971: "Pat Buchanan suggested that maybe we could have the Florida State chairman do whatever he can under this law to keep McCloskey (Rep. McCloskey, R-Calif.) off the ballot."

6. Subject senior White House staff personnel to confirmation by the Senate.

7. Prohibit White House staff from making recommendations, inquiries, or exchanging classified information with any department or agency as to any case, action, or funding except upon written authority of the President, which authority shall be immediately transmitted to the appropriate congressional committee, along with a description of each instance in which the authority is used.

8. Draft a code of candidate responsibility, with appropriate disciplinary rules and grievance procedures, to be enforced through a Federal Elections Commission.

9. Provide for "accredited campaign representatives," exchanged by opponents for nomination or election to Federal office, to be accorded the privileges of travel, interviews, and news releases granted to accredited press representatives in general.

10. Require Federal candidates and officeholders to fully disclose all sources of income and assets or liabilities over \$1,500, to be submitted by February 15 of each year, for the calendar year preceding, for publication in the Congressional Record. This to supersede any present statutes relative to congressional financial disclosure.

11. Require campaigns for the Presidency, after a nominee is selected, to be run by the party of the candidate.

12. Require that campaigns for nomination or election to Federal office be conducted between the first Tuesday of September and the first Tuesday of November.

13. Designate election day as a Federal holiday, in order that the voting franchise not be restricted by competing concerns about jobs.

14. Require that candidates for Federal elective office report all collections and expenditures 2 weeks before election day, with no collections thereafter.

15. Prohibit candidates for Federal elective office from accepting cash contributions over \$50 or spending more than \$10,000 in personal funds.

16. Restrict candidates for Federal elective office to only one campaign committee.

17. Open all congressional hearings and sessions to the public, except with respect to national security, proprietary information, or personally defamatory matters. The present rule, leaving such open sessions up to each committee's discretion, should be made mandatory and uniform.



## Resolutions Pertaining to the Select Committee

93<sup>d</sup> CONGRESS  
1<sup>st</sup> SESSION**S. RES. 60**

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**IN THE SENATE OF THE UNITED STATES**

FEBRUARY 5, 1973

Mr. ERVIN (for himself and Mr. MANSFIELD) submitted the following resolution; which was ordered to be placed on the calendar.

FEBRUARY 7, 1973

Considered, amended, and agreed to

[Omit the part struck through and insert the part printed in *italic*]

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**RESOLUTION**

To establish a select committee of the Senate to conduct an investigation and study of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any persons, acting individually or in combination with others, in the presidential election of 1972, or any campaign, canvass, or other activity related to it.

1      *Resolved,*

2      SECTION 1. (a) That there is hereby established a  
3 select committee of the Senate, which may be called, for  
4 convenience of expression, the Select Committee on Presi-  
5 dential Campaign Activities, to conduct an investigation and  
6 study of the extent, if any, to which illegal, improper, or  
7 unethical activities were engaged in by any persons, acting



1 either individually or in combination with others, in the  
2 presidential election of 1972, or in any related campaign or  
3 canvass conducted by or in behalf of any person seeking  
4 nomination or election as the candidate of any political party  
5 for the office of President of the United States in such elec-  
6 tion, and to determine whether in its judgment any occur-  
7 rences which may be revealed by the investigation and study  
8 indicate the necessity or desirability of the enactment of new  
9 congressional legislation to safeguard the electoral process  
10 by which the President of the United States is chosen.

11 (b) The select committee created by this resolution shall  
12 consist of ~~five~~ *seven* Members of the Senate, ~~three~~ *four* of  
13 whom shall be appointed by the President of the Senate  
14 from the majority Members of the Senate upon the recom-  
15 mendation of the majority leader of the Senate, and ~~two~~  
16 *three* of whom shall be appointed by the President of the  
17 Senate from the minority Members of the Senate upon the  
18 recommendation of the minority leader of the Senate. For  
19 the purposes of paragraph 6 of rule XXV of the Standing  
20 Rules of the Senate, service of a Senator as a member, chair-  
21 man, or vice chairman of the select committee shall not be  
22 taken into account.

23 (c) The select committee shall select a chairman and  
24 vice chairman from among its members, and adopt rules of  
25 procedure to govern its proceedings. The vice chairman shall  
26 preside over meetings of the select committee during the

1 absence of the chairman, and discharge such other responsi-  
2 bilities as may be assigned to him by the select committee or  
3 the chairman. Vacancies in the membership of the select com-  
4 mittee shall not affect the authority of the remaining mem-  
5 bers to execute the functions of the select committee and  
6 shall be filled in the same manner as original appointments  
7 to it are made.

8 (d) A majority of the members of the select committee  
9 shall constitute a quorum for the transaction of business, but  
10 the select committee may fix a lesser number as a quorum  
11 for the purpose of taking testimony or depositions.

12 SEC. 2. That the select committee is authorized and  
13 directed to do everything necessary or appropriate to make  
14 the investigation and study specified in section 1 (a). With-  
15 out abridging or limiting in any way the authority conferred  
16 upon the select committee by the preceding sentence, the  
17 Senate further expressly authorizes and directs the select  
18 committee to make a complete investigation and study of the  
19 activities of any and all persons or groups of persons or orga-  
20 nizations of any kind which have any tendency to reveal the  
21 full facts in respect to the following matters or questions: "

22 (1) The breaking, entering, and bugging of the  
23 headquarters or offices of the Democratic National Com-  
24 mittee in the Watergate Building in Washington, District  
25 of Columbia;

1           (2) The monitoring by bugging, eavesdropping,  
2           wiretapping, or other surreptitious means of conversa-  
3           tions or communications occurring in whole or in part in  
4           the headquarters or offices of the Democratic National  
5           Committee in the Watergate Building in Washington,  
6           District of Columbia;

7           (3) Whether or not any printed or typed or written  
8           document or paper or other material was surreptitiously  
9           removed from the headquarters or offices of the Demo-  
10          cratic National Committee in the Watergate Building in  
11          Washington, District of Columbia, and thereafter copied  
12          or reproduced by photography or any other means for  
13          the information of any person or political committee or  
14          organization;

15          (4) The preparing, transmitting, or receiving by  
16          any person for himself or any political committee or  
17          any organization of any report or information concern-  
18          ing the activities mentioned in subdivision (1), (2),  
19          or (3) of this section, and the information contained in  
20          any such report;

21          (5) Whether any persons, acting individually or  
22          in combination with others, planned the activities men-  
23          tioned in subdivision (1), (2), (3), or (4) of this  
24          section, or employed any of the participants in such  
25          activities to participate in them, or made any payments

1 or promises of payments of money or other things of  
2 value to the participants in such activities or their fam-  
3 ilies for their activities, or for concealing the truth in  
4 respect to them or any of the persons having any con-  
5 nection with them or their activities, and, if so, the  
6 source of the moneys used in such payments, and the  
7 identities and motives of the persons planning such ac-  
8 tivities or employing the participants in them;

9 (6) Whether any persons participating in any of  
10 the activities mentioned in subdivision (1), (2), (3),  
11 (4), or (5) of this section have been induced by brib-  
12 ery, coercion, threats, or any other means whatsoever  
13 to plead guilty to the charges preferred against them in  
14 the District Court of the District of Columbia or to  
15 conceal or fail to reveal any knowledge of any of the  
16 activities mentioned in subdivision (1), (2), (3),  
17 (4), or (5) of this section, and, if so, the identities  
18 of the persons inducing them to do such things, and the  
19 identities of any other persons or any committees or  
20 organizations for whom they acted;

21 (7) Any efforts to disrupt, hinder, impede, or sabo-  
22 tage in any way any campaign, canvass, or activity con-  
23 ducted by or in behalf of any person seeking nomination  
24 or election as the candidate of any political party for the  
25 office of President of the United States in 1972 by in-

## 6

1       filtrating any political committee or organization or head-  
2       quarters or offices or home or whereabouts of the person  
3       seeking such nomination or election or of any person  
4       aiding him in so doing, or by bugging or eavesdropping  
5       or wiretapping the conversations, communications,  
6       plans, headquarters, offices, home, or whereabouts of the  
7       person seeking such nomination or election or of any  
8       other person assisting him in so doing, or by exercising  
9       surveillance over the person seeking such nomination or  
10      election or of any person assisting him in so doing, or by  
11      reporting to any other person or to any political com-  
12      mittee or organization any information obtained by such  
13      infiltration, eavesdropping, bugging, wiretapping, or  
14      surveillance;

15           (8) Whether any person, acting individually or in  
16      combination with others, or political committee or orga-  
17      nization induced any of the activities mentioned in sub-  
18      division (7) of this section or paid any of the partici-  
19      pants in any such activities for their services, and, if so,  
20      the identities of such persons, or committee, or organiza-  
21      tion, and the source of the funds used by them to procure  
22      or finance such activities;

23           (9) Any fabrication, dissemination, or publication  
24      of any false charges or other false information having  
25      the purpose of discrediting any person seeking nomina-

1 tion or election as the candidate of any political party  
2 to the office of President of the United States in 1972;

3 (10) The planning of any of the activities men-  
4 tioned in subdivision (7), (8), or (9) of this section,  
5 the employing of the participants in such activities,  
6 and the source of any moneys or things of value which  
7 may have been given or promised to the participants in  
8 such activities for their services, and the identities of  
9 any persons or committees or organizations which may  
10 have been involved in any way in the planning, pro-  
11 curing, and financing of such activities.

12 (11) Any transactions or circumstances relating to  
13 the source, the control, the transmission, the transfer,  
14 the deposit, the storage, the concealment, the expendi-  
15 ture, or use in the United States or in any other coun-  
16 try, of any moneys or other things of value collected or  
17 received for actual or pretended use in the presidential  
18 election of 1972 or in any related campaign or canvass  
19 or activities preceding or accompanying such election  
20 by any person, group of persons, committee, or orga-  
21 nization of any kind acting or professing to act in behalf  
22 of any national political party or in support of or in  
23 opposition to any person seeking nomination or election  
24 to the office of President of the United States in 1972;

1           (12) Compliance or noncompliance with any act  
2       of Congress requiring the reporting of the receipt or dis-  
3       bursement or use of any moneys or other things of value  
4       mentioned in subdivision (11) of this section;

5           (13) Whether any of the moneys or things of value  
6       mentioned in subdivision (11) of this section were  
7       placed in any secret fund or place of storage for use in  
8       financing any activity which was sought to be concealed  
9       from the public, and, if so, what disbursement or expend-  
10      iture was made of such secret fund, and the identities  
11      of any person or group of persons or committee or or-  
12      ganization having any control over such secret fund or  
13      the disbursement or expenditure of the same;

14          (14) Whether any books, checks, canceled checks,  
15      communications, correspondence, documents, papers,  
16      physical evidence, records, recordings, tapes, or mate-  
17      rials relating to any of the matters or questions the select  
18      committee is authorized and directed to investigate and  
19      study have been concealed, suppressed, or destroyed by  
20      any persons acting individually or in combination with  
21      others, and, if so, the identities and motives of any such  
22      persons or groups of persons;

23          (15) Any other activities, circumstances, materials,  
24      or transactions having a tendency to prove or disprove  
25      that persons acting either individually or in combination

1 with others, engaged in any illegal, improper, or un-  
2 ethical activities in connection with the presidential  
3 election of 1972 or any campaign, canvass, or activity  
4 related to such election;

5 (16) Whether any of the existing laws of the  
6 United States are inadequate, either in their provisions  
7 or manner of enforcement to safeguard the integrity or  
8 purity of the process by which Presidents are chosen.

9 SEC. 3. (a) To enable the select committee to make  
10 the investigation and study authorized and directed by this  
11 resolution, the Senate hereby empowers the select committee  
12 as an agency of the Senate (1) to employ and fix the com-  
13 pensation of such clerical, investigatory, legal, technical, and  
14 other assistants as it deems necessary or appropriate; (2) to  
15 sit and act at any time or place during sessions, recesses, and  
16 adjournment periods of the Senate; (3) to hold hearings for  
17 taking testimony on oath or to receive documentary or physi-  
18 cal evidence relating to the matters and questions it is author-  
19 ized to investigate or study; (4) to require by subpoena or  
20 otherwise the attendance as witnesses of any persons who  
21 the select committee believes have knowledge or information  
22 concerning any of the matters or questions it is authorized to  
23 investigate and study; (5) to require by subpoena or order  
24 any department, agency, officer, or employee of the execu-  
25 tive branch of the United States Government, or any private



## 10

1 person, firm, or corporation, or any officer or former officer  
2 or employee of any political committee or organization to  
3 produce for its consideration or for use as evidence in its  
4 investigation and study any books, checks, canceled checks,  
5 correspondence, communications, document, papers, physical  
6 evidence, records, recordings, tapes, or materials relating to  
7 any of the matters or questions it is authorized to investigate  
8 and study which they or any of them may have in their  
9 custody or under their control; (6) to make to the Senate  
10 any recommendations it deems appropriate in respect to the  
11 willful failure or refusal of any person to appear before it in  
12 obedience to a subpoena or order, or in respect to the willful  
13 failure or refusal of any person to answer questions or give  
14 testimony in his character as a witness during his appearance  
15 before it, or in respect to the willful failure or refusal of any  
16 officer or employee of the executive branch of the United  
17 States Government or any person, firm, or corporation, or any  
18 officer or former officer or employee of any political committee  
19 or organization, to produce before the committee any books,  
20 checks, canceled checks, correspondence, communications,  
21 document, financial records, papers, physical evidence, rec-  
22 ords, recordings, tapes, or materials in obedience to any sub-  
23 pena or order; (7) to take depositions and other testimony on  
24 oath anywhere within the United States or in any other  
25 country; (8) to procure the temporary or intermittent serv-

1 ices of individual consultants, or organizations thereof, in the  
2 same manner and under the same conditions as a standing  
3 committee of the Senate may procure such services under  
4 section 202 (i) of the Legislative Reorganization Act of  
5 1946; (9) to use on a reimbursable basis, with the prior  
6 consent of the Government department or agency concerned  
7 and the Committee on Rules and Administration, the serv-  
8 ices of personnel of any such department or agency; (10) to  
9 use on a reimbursable basis or otherwise with the prior con-  
10 sent of the chairman of any other of the Senate committees  
11 or the chairman of any subcommittee of any committee of  
12 the Senate the facilities or services of any members of the  
13 staffs of such other Senate committees or any subcommittees  
14 of such other Senate committees whenever the select com-  
15 mittee or its chairman deems that such action is necessary or  
16 appropriate to enable the select committee to make the in-  
17 vestigation and study authorized and directed by this resolu-  
18 tion; (11) to have access through the agency of any mem-  
19 bers of the select committee ~~or any of its investigatory or~~  
20 ~~legal assistants designated by it or its chairman, or the rank-~~  
21 ~~ing minority member, chief majority counsel, minority coun-~~  
22 ~~sel, or any of its investigatory assistants jointly designated by~~  
23 ~~the chairman and the ranking minority member~~ to any data,  
24 evidence, information, report, analysis, or document or papers  
25 relating to any of the matters or questions which it is author-

1 ized and directed to investigate and study in the custody or  
2 under the control of any department, agency, officer, or em-  
3 ployee of the executive branch of the United States Govern-  
4 ment having the power under the laws of the United States  
5 to investigate any alleged criminal activities or to prosecute  
6 persons charged with crimes against the United States which  
7 will aid the select committee to prepare for or conduct the  
8 investigation and study authorized and directed by this reso-  
9 lution; and (12) to expend to the extent it determines nec-  
10 essary or appropriate any moneys made available to it by the  
11 Senate to perform the duties and exercise the powers con-  
12 ferred upon it by this resolution and to make the investigation  
13 and study it is authorized by this resolution to make.

14 (b) Subpenas may be issued by the select committee  
15 acting through the chairman or any other member desig-  
16 nated by him, and may be served by any person designated  
17 by such chairman or other member anywhere within the  
18 borders of the United States. The chairman of the select  
19 committee, or any other member thereof, is hereby author-  
20 ized to administer oaths to any witnesses appearing before  
21 the committee.

22 (c) In preparing for or conducting the investigation and  
23 study authorized and directed by this resolution, the select  
24 committee shall be empowered to exercise the powers con-  
25 ferred upon committees of the Senate by section 6002 of title

1 18 of the United States Code or any other Act of Congress  
2 regulating the granting of immunity to witnesses.

3 SEC. 4. The select committee shall have authority to  
4 recommend the enactment of any new congressional legis-  
5 lation which its investigation considers it is necessary or  
6 desirable to safeguard the electoral process by which the  
7 President of the United States is chosen.

8 SEC. 5. The select committee shall make a final report of  
9 the results of the investigation and study conducted by it  
10 pursuant to this resolution, together with its findings and  
11 its recommendations as to new congressional legislation it  
12 deems necessary or desirable, to the Senate at the earliest  
13 practicable date, but no later than February 28, 1974. The  
14 select committee may also submit to the Senate such interim  
15 reports as it considers appropriate. After submission of its  
16 final report, the select committee shall have three calendar  
17 months to close its affairs, and on the expiration of such  
18 three calendar months shall cease to exist.

19 SEC. 6. The expenses of the select committee through  
20 February 28, 1974, under this resolution shall not exceed  
21 \$500,000, of which amount not to exceed \$25,000 shall be  
22 available for the procurement of the services of individual  
23 consultants or organizations thereof. Such expenses shall be  
24 paid from the contingent fund of the Senate upon vouchers  
25 approved by the chairman of the select committee.

## 14

- 1 *The minority members of the select committee shall have one-*
- 2 *third of the professional staff of the select committee (includ-*
- 3 *ing a minority counsel) and such part of the clerical staff*
- 4 *as may be adequate.*

93<sup>d</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. RES. 194

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 2, 1973

Mr. ERVIN (for himself, Mr. BAKER, Mr. GURNEY, Mr. INOUE, Mr. MONTOYA, Mr. TALMADGE, and Mr. WEICKER) submitted the following resolution; which was ordered to be placed on the calendar

NOVEMBER 7, 1973

Considered and agreed to

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## RESOLUTION

Relating to S. Res. 60.

1      *Resolved, That—*

2      SECTION 1. By S. Res. 60, Ninety-third Congress, first  
3 session (1973), section 3 (a) (5), the Select Committee on  
4 Presidential Campaign Activities was and is empowered to  
5 issue subpoenas for documents, tapes, and other material to  
6 any officer of the executive branch of the United States Gov-  
7 ernment. In view of the fact that the President of the United  
8 States is, as recognized by S. Res. 60, an officer of the  
9 United States, and was a candidate for the office of President  
10 in 1972 and is therefore a person whose activities the select  
11 committee is authorized by S. Res. 60 to investigate, it is

1 the sense of the Senate that the select committee's issuance  
2 on July 23, 1973, of two subpoenas duces tecum to the Pres-  
3 ident for the production of tapes and other materials was  
4 and is fully authorized by S. Res. 60. Moreover, the Senate  
5 hereby approves and ratifies the committee's issuance of  
6 these subpoenas.

7       SEC. 2. On August 9, 1973, the select committee and its  
8 members instituted suit against the President of the United  
9 States in the United States District Court for the District of  
10 Columbia to achieve compliance with the two subpoenas ref-  
11 erenced in section 1 above, and since that time, in both the  
12 district court and the United States Court of Appeals for the  
13 District of Columbia Circuit, have actively pursued this litiga-  
14 tion. It is the sense of the Senate that the initiation and pur-  
15 suit of this litigation by the select committee and its members  
16 was and is fully authorized by applicable custom and law,  
17 including the provisions of S. Res. 262, Seventieth Congress,  
18 first session (1928). In view of the entirely discretionary  
19 provisions of section 3 (a) (6) of S. Res. 60, it is further  
20 the sense of the Senate that the initiation of this lawsuit did  
21 not require the prior approval of the Senate. Moreover, the  
22 Senate hereby approves and ratifies the actions of the select  
23 committee in instituting and pursuing the aforesaid litigation.

24       SEC. 3. The select committee and its members, by issuing  
25 subpoenas to the President and instituting and pursuing litiga-

1 tion to achieve compliance with those subpoenas, were and  
2 are acting to determine the extent of possible illegal, im-  
3 proper, or unethical conduct in connection with the Pres-  
4 idential campaign and election of 1972 by officers or  
5 employees of the executive branch of the United States Gov-  
6 ernment or other persons. It is the sense of the Senate that,  
7 in so doing, the select committee and its members were and  
8 are engaged in the furtherance of valid legislative purposes,  
9 to wit, a determination of the need for and scope of corrective  
10 legislation to safeguard the processes by which the President  
11 of the United States is elected and, in that connection, the  
12 informing of the public of the extent of illegal, improper, or  
13 unethical activities that occurred in connection with the  
14 Presidential campaign and election of 1972 and the involve-  
15 ment of officers or employees of the executive branch or  
16 others therein. It is further the sense of the Senate that the  
17 materials sought by the committee's subpoenas are of vital  
18 importance in determining the extent of such involvement  
19 and in determining the need for and scope of corrective  
20 legislation.



93<sup>d</sup> CONGRESS  
1<sup>st</sup> SESSION

# S. RES. 132

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## IN THE SENATE OF THE UNITED STATES

JUNE 25, 1973

Mr. ERVIN (for himself and Mr. BAKER) submitted the following resolution;  
which was considered and agreed to

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## RESOLUTION

To increase the sums allotted to the Senate Select Committee on Presidential Campaign Activities for the expenses of conducting the investigation and study authorized and directed by Senate Resolution 60 which was adopted on February 7, 1973.

1       *Resolved,*

2       SECTION 1. That the first sentence of section 6 of Senate  
3       Resolution 60, which was adopted on February 7, 1973, is  
4       hereby changed to read as follows: "The expenses of the  
5       select committee through February 28, 1974, under this res-  
6       olution shall not exceed \$1,000,000, of which amount not  
7       to exceed \$40,000 shall be available for the procurement  
8       of the services of individual consultants or organizations  
9       thereof."

93<sup>d</sup>. CONGRESS  
2<sup>d</sup> SESSION

# S. RES. 327

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## IN THE SENATE OF THE UNITED STATES

MAY 20, 1974

Mr. ERVIN (for himself and Mr. BAKER) submitted the following resolution;  
which was ordered to be placed on the calendar

MAY 21, 1974

Considered and agreed to

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## RESOLUTION

To extend the time of the Senate Select Committee on Presidential Campaign Activities for making its final report to the Senate, and for prosecuting its judicial action against the President for certain taped recordings.

- 1      *Resolved*, That section 5 of S. Res. 60, which was  
2      adopted February 7, 1973, is hereby amended to read as  
3      follows: "The select committee shall make a final report of  
4      the results of the investigation and study conducted by it  
5      pursuant to this resolution, together with its findings and such  
6      legislative proposals as it deems necessary or desirable, to  
7      the Senate at the earliest practicable date, but no later than  
8      June 30, 1974. The select committee may also submit to  
9      the Senate such interim reports as it considers appropriate.

1 After submission of its final report, the select committee  
2 shall have three calendar months to close its affairs, and on  
3 the expiration of such three calendar months shall cease to  
4 exist: *Provided, however,* That in case the judicial action  
5 brought by the select committee against the President to ob-  
6 tain specified taped recordings of conversations in which the  
7 President and his former aide, John W. Dean, participated is  
8 not finally adjudicated before the expiration of such three  
9 calendar months, the select committee shall continue in exist-  
10 ence thereafter until thirty days subsequent to the occurrence  
11 of one of these alternative events, namely, the judicial action  
12 is finally adjudicated adversely to the select committee, or the  
13 specified taped recordings are actually received by the select  
14 committee pursuant to the final adjudication of such judicial  
15 action or otherwise. In case the last event occurs, the select  
16 committee is empowered to report to the Senate an adden-  
17 dum to its final report setting forth findings and legislative  
18 recommendations based on what the taped recordings  
19 disclose.”.